

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 251 OF 2015

IN

CRIMINAL APPEAL NO. 58 OF 2015

SHRI. ANAND GAWAS, PRESENTLY IN
CUSTODY AT CENTRAL JAIL COLVALE.

... Applicant

Versus

STATE, THROUGH P.P. HIGH COURT OF
BOMBAY AT GOA.

... Respondent

Mr. Rajneesh Naik, Advocate for the applicant.

Mr. S. R. Rivankar, Public Prosecutor for the respondent.

Coram:- F. M. REIS &
C. V. BHADANG, JJ.

Date:- 30th November, 2015

P.c.

This is an application for suspension of sentence and for release of the applicant on bail.

2. The applicant along with three others, has been convicted for the offences punishable under Sections 302, 304-B, 498-A, read with Section 34 of Indian Penal Code (IPC). For the offence punishable under Section 302 of IPC, the applicant has been sentenced to suffer imprisonment for life and to pay a fine of Rs.10,000/- and in default, to undergo Simple Imprisonment for a period of six months. Under Section 304-B of IPC, the applicant is sentenced to undergo imprisonment for a period of 7 years and to pay a fine of Rs.10,000/-

and in default, to undergo Simple Imprisonment for a period of six months, while under Section 498-A of IPC, the applicant is sentenced to undergo imprisonment for two years and to pay a fine of Rs.10,000/- and in default, to undergo Simple Imprisonment for a period of three months.

3. We have heard the learned Counsel for the applicant and Shri Rivankar, the learned Public Prosecutor for the respondent State.

4. On hearing the learned Counsel for the parties and on perusal of the record, it appears that the applicant was all along on bail during the course of the trial. There are no allegations of the applicant having misused the liberty. The applicant is said to be a local resident, having roots in the society.

5. The applicant, who happens to be the brother-in-law of the deceased, has not been named by the deceased in dying declaration. It, prima facie, appears at this stage that the deceased Pramila had not named the applicant and no overt act is attributed to him, so as to show complicity in the offence.

6. It was submitted by Shri Rivankar, the learned Public Prosecutor that the applicant was present in the house, when the incident had occurred.

7. Having considered the rival circumstances and the submissions made and taking note of the fact that the deceased had not attributed any overt act to the applicant and further having regard to the fact that the applicant was on bail during the trial, we find that the applicant can be released on bail, subject to conditions. Hence, the following order is passed :

ORDER

- (i) The substantive sentence of imprisonment awarded to the applicant, is hereby suspended, pending the disposal of the appeal, on condition of the applicant furnishing a P.R. Bond in the sum of Rs.25,000/-, with one solvent surety in the like amount.
- (ii) The applicant shall deposit the amount of fine, if not already deposited, before the Sessions Court, within one week.
- (iii) Bail before the Sessions Court.

C. V. BHADANG, J.

F. M. REIS, J.

SMA