

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CR. APPLICATION NO 811 OF 2015
IN
CR. APPEAL NO 819 OF 2015

VITTHAL RAJARAM NIMBALKAR ...Applicant.
V/S
THE STATE OF MAHARASHTRA ...Respondent.

....
Mr. Shrishail Sakhare, for the Applicant.
Mrs. P.P. Bhosale, APP, for the State.
....

CORAM : A. R. JOSHI, J.

DATE : 23rd SEPTEMBER, 2015

P.C.

1. Heard rival arguments on this application for bail / suspension of sentence during pendency of appeal. The appeal is already admitted.
2. The applicant is convicted for the offence punishable under Section 304 (Part II) of IPC and sentenced to suffer RI for seven years and to pay fine of Rs.5000/-, by the Sessions Judge, Solapur vide order dated 11.4.2014.
3. During the trial the applicant was not on bail. The

case proved against the applicant during the trial is that of pouring kerosene on his wife, the victim, and setting her on fire at the early hours of the day. The incident happened after about 7 years of marriage. There was no issue to the couple. Apparently the applicant was suspecting the chastity of his wife (the deceased) and he had asked her about six months prior to the incident not to go a particular place for daily household work as a maid-servant. These orders of the applicant were not obeyed by the wife and she continued the work. On this background the incident of pouring kerosene and setting the wife on fire occurred. There are two dying declarations, one recorded by the Police Officer and another recorded by the Special Executive Magistrate. There is also one oral dying declaration given before the father of the victim woman.

4. The trial Court held that the applicant had poured kerosene on his wife and set her on fire but the trial Court also held that later on the applicant tried to extinguish the fire and in that process he had also sustained some burn injuries. By pointing out this, the trial Court came to the conclusion that it was not a case of murder punishable under Section 302 of IPC,

though, earlier charge framed against the applicant was for the offence punishable under Section 302 of IPC. The Sessions Court brought down the said charge to the offence punishable under Section 304 (Part II). Whether that was rightly done or not is another issue which can be dealt in detail at the time of final adjudication of the appeal and if the State prefers to challenge the acquittal of the applicant for the offence punishable under Section 302 of IPC.

5. In any event considering the established case against the applicant and considering that during the trial also he was not on bail, this is not a case in which the applicant can be released on bail during pendency of appeal. Hence present application for bail is accordingly dismissed and disposed of.

(A. R. JOSHI, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.