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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 978 of 2015

(Suspension of sentence)

IN

CRIMINAL APPEAL No. 859 of 2015

Vinod Ramesh Pimple

..Applicant.

Versus

The State of Maharashtra

..Respondent.

Ms Savita Prabhune, Advocate for the Applicant.

Mrs P.P. Bhosale, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 7th September, 2015

P.C. :

1) Heard learned counsel for the applicant. Also heard learned APP for the State. This is an application for bail and for suspension of the sentence during the pendency of the appeal. The appeal is already admitted.

2) The applicant was initially charged for the offence punishable under section 302 of IPC along with certain other sections. However, after the conclusion of the trial, the conviction was brought down to the offence under section 304 Part II of IPC and the applicant was sentenced to suffer RI for seven years and to pay fine of Rs.1000/-. He is also convicted for other minor offences of IPC under sections 323, 325 and minor punishments were imposed.

3) The allegations against the applicant and which are ultimately proved at the end

of the trial were that on the night of the incident he had been to the place of his in-laws to take back his wife. The wife had left his house due to ill treatment, about two to three years prior to the incident. On the relevant night, initially the applicant made a phone call to the brother of his wife and asked for talking to his wife i.e. one Sunita. The applicant was denied to talk but again he insisted and repeated that he want to take his wife back. It was, apparently, the night time. At about 11:30 p.m. the door bell of the house of the in-laws of the present applicant rang from outside. The complainant, brother of the wife of the applicant, opened the door but nobody was found outside. As such the door was closed and the persons in the house again went to sleep. After sometime, again the door bell rang and the present applicant was present outside and he had insisted on taking his wife Sunita along with him from the house of her parents. There was some hot exchange of words and in which the applicant pushed his father-in-law and also took out one wooden log and assaulted the father-in-law on his head, causing some depressed fracture as detailed in the postmortem report. The father-in-law of the applicant succumbed to the injuries at about 6:00 a.m. while under treatment in the hospital. The cause of death as per the postmortem report is head injury.

4) During the arguments, it is submitted that the applicant was on bail during the trial and the final cause of death is reported as heart failure. On this aspect, the postmortem report and the final finding as to the cause of death is of much significance. Definitely, there was a depressed fracture on the head of the victim who succumbed to the injuries within five to six hours though while under treatment. It is tried to argue by the learned counsel for the applicant that the applicant was falsely implicated in the matter and apparently it was the design of the complainant / the brother of his wife, to implicate the applicant in a false case, more so, after the death of

the father-in-law of the applicant, all retirement benefits were to go to the legal heirs of said father-in-law including the complainant. Though it is the defence adopted, during the arguments on this application for bail, apparently there is nothing on record to suggest that it was such a defence put to the witnesses in the trial court. The statement of the accused recorded under section 313 of Cr.P.C. also do not disclose any such defence. The factual position as of today is that initially charge was for the offence under section 302 but it was brought down to 304 Part II of IPC. The applicant is sentenced to suffer RI for seven years. Considering these circumstances, in the opinion of this Court, this is not a case in which the applicant can be released on bail during pendency of the appeal. Hence, the application is rejected and disposed of.

(A.R.JOSHI, J.)

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