

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3072 OF 2016

IN

CRIMINAL APPEAL NO. 362 OF 2016

Santosh S/o Dodha Bagul,
Age : 26 years, Occu. Labour, R/o. Dahiwad,
Tq. Chalisgaon, Dist. Jalgaon.

...Applicant

Versus

The State of Maharashtra.

...Respondent

.....
Mr Satej S. Jadhav, Advocate for the applicant.
Mr A. V. Deshmukh, APP for respondent/State.
.....

**CORAM : V. L. ACHLIYA, J.
DATED : 23RD AUGUST, 2016.**

1. Heard both the sides. Perused the application and the impugned judgment and order passed by the trial Court.

2. The applicant is tried for committing offence u/s 316, 323, 504 of the Indian Penal Code. On conclusion of the trial, the trial Court has convicted the applicant u/s 316 of IPC and sentenced to undergo rigorous imprisonment for five years and to pay fine of Rs. 1,000/-. No separate sentence has been awarded for offence u/s 504 and 323 of the IPC.

3. Mr Satej Jadhav, learned counsel for the applicant vehemently contended that, the trial Court has not properly considered the fact that the accused himself had taken the complainant i.e. his wife to Doctor when she complained pain in abdomen. The trial Court has also not considered the material fact, which is brought on record, that the complainant had taken some Ayurvedic medicine for termination of the pregnancy which she was carrying. It is contended that, the accused has been falsely implicated at the instance of the parents of the wife i.e. the

complainant. They were against their marriage. He has further submitted that, the accused is in jail since 04.09.2014 and, therefore, urged to release the applicant on bail.

4. Learned APP has opposed the application with contention that, the reasons and findings recorded by the trial Court are fully in consonance with the evidence on record. The testimony of the complainant has been duly corroborated by the medical evidence on record.

5. Having regard to the submissions advanced, nature of the offence, the sentence awarded and further taking into consideration that the arguable case is made out to be considered in appeal, I am of the view that the applicant deserves to be enlarged on bail. The applicant is in jail sine last two years. Hence, the following order.

ORDER

- (1) The Criminal Application No. 3072 of 2016 is allowed in terms of prayer clause 'B'.
- (2) Pending disposal of the appeal, sentence awarded by the trial Court stands suspended.
- (3) Pending disposal of the appeal, applicant be released on bail on his furnishing bail in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount on the following conditions:
 - (i) Applicant shall visit and record his attendance with Mehunbare Police Station, Tq. Chalisgaon, Dist. Jalgaon, on every 2nd Sunday in between 10:00 AM to 11:00 AM in each month, till disposal of the appeal.

- (ii) Applicant shall furnish the names, addresses and phone numbers with residential proof of his three close relatives.
 - (iii) Applicant shall not cause any threat to the complainant, victim and witnesses in the case.
 - (iv) Applicant shall not leave the Jalgaon city without prior intimation to the concerned Police Station.
 - (v) Applicant shall not involve in any criminal activities.
- (4) In case of breach of any of the conditions as above, bail granted to the applicant shall be liable to be cancelled.
- (5) Bail to be furnished in trial Court.

(V. L. ACHLIYA)
JUDGE