

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.4995 OF 2016
IN
CRIMINAL APPEAL ST.NO.514 OF 2016**

Shaikh Shakir S/o. Shaikh Habib .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.Sachin S. Panale, Advocate for the applicant
Mrs. P.V.Diggikar, APP for the respondent/State

**CORAM : V.L.ACHLIYA, J.
DATED : 17.10.2016**

P.C. :-

1. The applicant has moved this application seeking bail pending disposal of appeal on the ground set out in the detail in the application.

2. Heard learned counsel for the applicant and the APP for the State. Perused the impugned judgment and copies of depositions placed on record. The applicant was tried for committing offence u/s. 452,307,387,504 & 506 of the I.P.C. On conclusion of the trial the applicant is convicted under Section 307, 452,387 and 506 of I.P.C. For committing offence u/s 307 the applicant is sentenced to suffer R.I. ten years and to pay fine of Rs.5000/- i/d to undergo S.I. for three months. For committing offence

u/s 452 the applicant is sentenced to suffer R.I. five years and to pay fine of Rs.5000/- i/d to undergo S.I. for three months. For committing offence u/s 387 the applicant is sentenced to suffer R.I. five years and to pay fine of Rs.5000/- i/d to undergo S.I. for three months. For committing offence u/s 506 the applicant is sentenced to suffer R.I. two years and to pay fine of Rs. 2000/- I.D.S.I. for one month.

3. Learned counsel for the applicant pointed out that the incident alleged to be committed on 10.12.2014. FIR was lodged on 22.12.2014 i.e. after more than twelve days of incident. He further pointed out from the testimony of PW-1 that she has stated in her examination-in-chief itself that she regained consciousness on 14.12.2014 and police personnel visited her to record her statement. However as she was not in proper state of mind and therefore could not lodge complaint immediately after the incident. The complaint was lodged on 22.12.2014 by husband of P.W.-1. Learned counsel for the applicant further pointed out that the applicant is also facing the case lodged by same complainant wherein he has alleged that he has eloped his wife i.e. P.W.-1 and the incident in question alleged to be out come of previous incident. He further submits that appellant has good case to succeed in appeal and he has not committed offence u/s.

307,452,387 and 506 of I.P.C. The case is against the applicant is false and he has been falsely implicated in the case at the instance of complainant.

4. Learned APP has opposed the application with contention that there is a strong evidence against the applicant. She further submits that delay in lodging the complaint has been properly explained. The delay in causing the FIR was allowed due to reason that the victim was not in proper state of mind.

5. Having appreciated the submissions advanced in the light of judgment and order passed by the trial Court and evidence on record I am of the view arguable case has been made out in the appeal. The applicant is already lying in the Jail from more than twenty months. It will take long time to hear the appeal on merit. In this view I am inclined to pass the following order.

ORDER

- i. Application is allowed.
- ii. Pending disposal of appeal the execution of substantive sentence stands suspended from the date of released of applicant

on bail.

iii. Pending disposal of appeal the applicant be released on bail on his furnishing fresh bail bond in the sum Rs.75,000/- with one surety in the like amount on following conditions.

(a) If the applicant is having passport then he shall deposit the same in trial Court.

(b) Applicant shall not leave the country without seeking prior permission from this Court.

(c) Applicant shall attend and mark his attendance before the Officer Incharge of Jinsi Police Station on last Sunday of each month in between 10 a.m. to 11 a.m.

(d) The applicant shall furnish the names and addresses of his three close relatives with phone numbers.

(e) The applicant shall not cause threat to complainant and other prosecution witnesses.

(f) In the event of change in address the applicant shall intimate concerned police station and as well as this court.

iv. In the event of breach of any of the conditions, the bail granted to the applicant shall be liable to be canceled.

[V.L.ACHLIYA,J.]