

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6207 OF 2016
IN
CRIMINAL APPEAL NO. 681 OF 2016

PINTU @ SANTOSH S/O BHIVAJI SONKAMBLE
VERSUS
THE STATE OF MAHARASHTRA

...
Adv for Applicant : Mrs. Madhaveshwari Thube Mhase i/b M/s. Lex Aquila
APP for Respondent: Mr. M.B. Bharaswadkar
.....

CORAM : V. K. JADHAV, J.
DATED : 16th NOVEMBER, 2016

PER COURT:-

1. Heard.
2. By way of this application, the applicant is seeking suspension of sentence passed by the learned Additional Sessions Judge, Nilanga in Sessions Case No. 20 of 2011, pending the hearing and final disposal of accompanying criminal appeal and also to get released on bail, till disposal of the appeal.
3. The applicant original accused is convicted by the Additional Sessions Judge, Nilanga, by judgment and order dated 20.10.2016 in Sessions Case No. 20 of 2011, for the offence punishable under Section 304 Part-II of I.P.C. and sentenced to suffer R.I. for 3 years and to pay fine of Rs.1,000/- i/d to suffer further R.I. for 6 months.

4. Learned counsel for the applicant-original accused submits that there is substantial difference between provisional cause of death and final cause of death. The provisional cause of death is due to cardio respiratory arrest whereas the final cause of death is due to head injuries with multiple fractures. Only an eye witness P.W.3 Fulabai has improved her version and deposed before the court in the light of the final cause of death. There is no evidence that the applicant accused has caused head injuries and also other injuries, which resulted into multiple fractures. Further, deceased Shivaji was also beaten by three other ladies prior to the alleged incident. Learned counsel submits that during the course of trial, the applicant-accused was on bail.

5. I have also heard learned A.P.P. for the respondent-State.

6. Considering the above submissions and the fact that applicant was on bail during trial, I am inclined to allow this application. Hence I proceed to pass the following order:-

O R D E R

I. Criminal application is hereby allowed.

- II. The substantive part of sentence passed by the learned Additional Sessions Judge, Nilanga in Sessions Case No. 20 of 2011, as aforesaid, stands suspended till disposal of accompanying criminal appeal and till then the applicant-accused Pintu @ Santosh s/o Bhivaji Sonkamble, be released on bail on furnishing personal bond of Rs.20,000/- with one solvent surety in the like amount. Bail before the trial court. Humdast allowed.
- III. Criminal application is disposed of.

(V. K. JADHAV, J.)

rlj/