

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 343 OF 2016
IN
CRIMINAL APPEAL NO. 190 OF 2016

Shri Ashok Dattu Patil	...	Applicant
vs.		(Orig. accused No.1)
The State of Maharashtra	...	Respondent

Mr. S.R.Borulkar i/b. Mr. S.V.Chaugule, Advocate for the applicant.
Ms. A.A.Mane, APP, for the State.

CORAM: SMT. SADHANA S.JADHAV, J.
DATE : 28th April, 2016.

P.C.

Heard. This is an application under Section 389 of Cr.P.C.
seeking suspension of substantive sentence.

2. The applicant herein is convicted for the offence punishable under Section 304B read with Section 34 of Indian Penal Code and sentenced to suffer R.I. for ten years and fine of Rs.5,000/- in default S.I. for six months. He is also convicted for the offence punishable under Section 498A of IPC and sentenced to suffer R.I. for 3 years and fine of Rs.3,000/-. The applicant is taken into custody on 22.2.2016.

3. It is the case of the prosecution that the applicant herein was married to deceased Sarita on 15.4.2000. The couple is blessed with a son namely Atul, who was almost 14 years old at the time of recording of his evidence on 29.9.2015. It is the case of the prosecution that the applicant was initially working in a company which was producing soda water. That he was demanding money for starting a soda water company. PW-1 Datta Shelar, father of deceased Sarita, initially paid Rs.20,000/- for starting a soda water company. Thereafter, the accused was demanding Rs.30,000/- for obtaining a licence for cold-drinks on that count. He was ill-treating Sarita and that being fed up of ill-treatment, she had committed suicide by hanging on 1.2.2006 i.e. within six years of her marriage.

4. Perused the records and proceedings.

5. PW-1 has deposed before the Court that the accused had started soda water company in the year 2002. That his business was well settled. That he was depositing money in United Western Bank and private co-operative bank. PW-1 has feigned ignorance as to whether the accused had already sought licence in the month of December 2005. It appears from

the evidence on record that the accused-applicant was addicted to alcohol and that there used to quarrels on that count between the spouses. That a joint meeting was held between the family members of both the spouses and that the accused had given an assurance that he would not consume alcohol or ill-treat Sarita. Initially, the accused were charged for the offence punishable under Section 302 of IPC. However, they had been acquitted of the said charge and are convicted for the offence punishable under Sections 304B and 498A of Indian Penal Code. Upon perusal of the evidence, more particularly of the son of the applicant, it appears that Sarita was meted out cruelty and ill-treatment at the hands of the applicant. However, Prima facie, there is no cogent and convincing evidence as far as the offence punishable under Section 304B of the Indian Penal Code is concerned.

6. In view of this, the application deserves to be enlarged on bail during the pendency of the appeal.

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant is hereby suspended. He be enlarged on bail on furnishing P.R.Bond in the sum of

Rs.25,000/- and one or more sureties in the like amount.

(iii) The applicant be enlarged on bail subject to depositing the fine amount.

(iv) The applicant shall report to the Court of Sessions, Kalyan once in six months on the dates specified by that Court.

(v) In case of failure to attend the Sessions Court, Kalyan on any two consecutive dates, the prosecution shall be at liberty to move for cancellation of bail.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)