

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.597 OF 2016

IN

CRIMINAL APPEAL NO.337 OF 2016

SATISH BABASAHEB CHAVAN

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Ganesh Bhujbal a/w. Mr.Abhijit Kadam, Advocate for the Applicant.

Mr.A.R.Kapadnis, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 29th NOVEMBER 2016.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant / accused on bail during pendency of the appeal. The applicant / accused was convicted of the offence punishable under Section 307 of the IPC and he is sentenced to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.1,000/-, in default, to undergo further rigorous imprisonment for 3 months, by the impugned judgment and order dated 2nd March 2016, by the learned Additional Sessions Judge, Satara.

2 The offence proved against the applicant / accused is punishable under Section 307 of the IPC. It is averred by the prosecution that the applicant / accused attempted to commit murder of Vishal Rahigude. The important thing which needs to be borne in mind in determining the question whether the offence is under Section 307 of the IPC, is the intention and not the injury inflicted. However, the weapon used and the damage caused as well as seat of injury gives considerable assistance for arriving at the intention of the accused.

3 In the case in hand, evidence of injured Vishal is to the effect that when he was sleeping in the house of PW2 Prakash Ganbote, the applicant / accused came with a big stone and assaulted him on his head by means of that stone. PW2 Prakash has seen the post event happening. His evidence shows that upon hearing loud sound, he rushed to the spot i.e. his house and saw the applicant / accused running away from the spot. Evidence of Dr.Sachin Gandhi, who conducted life saving surgery on the victim shows that the victim has suffered linear fracture to skull on the left parietal region crossing the mid-line on the opposite side, reaching till skull base. The evidence of Dr.Sachin shows that the injury so inflicted was sufficient to cause death.

4 The applicant / accused was undertrial prisoner and he was not released on bail during the pendency of the trial.

5 The offence warrants life imprisonment. Prima facie, it is seen that undue leniency is shown by the learned trial court in imposing sentence of only 7 years. No case for suspension of sentence, as such, is made out.

The application is rejected.

6 The request of the learned counsel for the applicant to expedite the hearing of the appeal is granted, as the applicant / accused is behind the bars for a period of about 3 years.

7 Put up the appeal for final hearing in the month of January in the category of appeals of undertrial prisoners.

(A. M. BADAR, J.)