

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CRIMINAL APPLICATION NO.1102 OF 2015
IN
CRIMINAL APPEAL NO.613 OF 2015**

Balaji Devidas More ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.Sangramsingh R.Bhonsle with Mr.Siddharth A Mehta,
Advocate for the Applicant.
Mrs.P.P.Bhosale, APP for the Respondent/State.

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CORAM : ABHAY M. THIPSAY J.

DATED : 14th JANUARY 2016.

P.C.

1. Head the learned counsel for the applicant/appellant.
Heard the learned Additional Public Prosecutor for the
Respondent/State.

2. The applicant was prosecuted on the allegations of his
having committed an offence punishable under Section 302 of the
Indian Penal Code. After holding a trial, the learned Additional
Sessions Judge came to the conclusion that the appellant was
guilty of an offence punishable under Section 304 Part II of the
Indian Penal Code. He, therefore, convicted the appellant

accordingly and sentenced him to suffer Rigorous Imprisonment for ten (10) years and to pay a fine of Rs.5000/-. The learned Additional Sessions Judge also convicted the appellant for an offence punishable under Section 323 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for six (6) months and to pay a fine of Rs.1000/-.

3. The appeal filed by the applicant challenging his conviction and the sentences, as aforesaid, has already been admitted. By the present application, the applicant prays that the substantive sentences imposed upon him be suspended during the pendency and final disposal of the appeal, and that he be released on bail.

4. Though a number of contentions have been raised, the main thrust of the arguments advanced the learned counsel for the applicant/appellant is on the fact that the injuries sustained by the deceased might have been caused by repeated falls. It is submitted that the medical evidence also considers such a possibility. It is emphasized that the deceased was drunk and unable to walk or talk properly.

5. I have gone through the evidence of Prosecution Witness No.1. I have also gone through the medical evidence and the cause of death as opined by the Medical officer.

6. The applicant was not on bail during the trial.
7. After considering all the relevant aspects of the matter, in my opinion, instead of suspending the sentences imposed upon the applicant, it would be proper to hear the appeal itself expeditiously. This does not seem to be a case where the substantive sentences imposed upon the applicant should be suspended. Such a prayer can be considered in the event of the appeal not being taken up for final hearing within a reasonable time.
8. The application is rejected.
9. However, the hearing of the appeal is ordered to be expedited.
10. Liberty to applicant to supply a private paper book. Liberty to the applicant to move the Court for an early hearing of the appeal, after the paper book would be ready. Liberty to the applicant to apply afresh for suspension of substantive sentences in the event of the appeal not being taken up for final hearing within nine (9) months from today.

(ABHAY M. THIPSAY J.)

CERTIFICATE

Certified to be true and correct copy of the original signed Judgment/Order.