

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1005 OF 2016

IN

CRIMINAL APPEAL NO.550 OF 2016

Deepak Pramod Singh

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr.Jayesh Bhatt, Advocate for the applicant.

Mr.S.V.Gavand, APP for the Respondent State.

PSI Shinde from Saki Naka P.Stn present.

CORAM : PN. DESHMUKH, J

DATED : 26th AUGUST 2016

P.C. :

1 This is an application for suspension of sentence imposed upon applicant and for grant of bail.

2 Applicant is found to be convicted for the offence punishable under section 306 IPC and is sentenced to suffer RI for five years and to pay fine of Rs.25,000/-. Accused is further convicted for the offence punishable under Section 498A IPC and is sentenced to suffer RI for 1(one) year and to pay fine of Rs.5,000/-.

3 Learned counsel for the applicant submits that the trial is liable to be vitiated on the ground that defective charge was

explained to accused applicant alleging that the incident took place on 17th December 2012 at around 20.13 hours, and in fact, no such incident occurred on that time on that day.

5 To substantiate said submissions, learned counsel has invited my attention on the points for consideration framed by learned trial Judge and the evidence on record.

6 With reference to submissions as aforesaid, on perusal of judgment, it is found that one of the points framed by learned trial Court for consideration refers to the incident dated 17th December 2012 at about 11.30 p.m. It is the case of applicant that no such incident took place at 11.30 p.m. Above case of applicant finds to be substantiated as from the evidence of independent witnesses, PW 4 Raju Sangale being neighbor, reveals that the incident took place at about 7.00 p.m to 8.00 p.m when he heard commotion, and therefore, went to the room of applicant where both the co-accused who are mother and sister of applicant were present and deceased who is wife of applicant was being carried by persons to hospital, saying that she had committed suicide.

7 Similarly, from the evidence of PW 5 Ramesh, also the neighbor when he has stated that on the day of incident at about 7.30 to 8.00 p.m, he heard shouts from the house of applicant, and along with him, other persons from the neighborhood gathered when they all noticed that deceased Ishika was being brought down and was taken to the hospital.

8 Similarly, from the evidence of PW 6 Mangal, it has come on record that incident took place prior to 8.30 pm when father of applicant was weeping and shouting taking name of deceased when she was being shifted to Rajawadi Hospital.

9 Considering the case of applicant, as aforesaid, thus, there appears substance in the same, as it is also stated at the bar that even charge explained to applicant is with reference to incident dated 17th December 2012 alleged to have occurred at 11.30 p.m.

10 In that view of the matter, and as applicant was admittedly on bail, pending trial, and had not misused liberty granted to him, and has also paid amount of fine, following order is passed on suspending sentence imposed upon applicant.

ORDER

Applicant shall be released on bail on furnishing P.R Bond in the sum of Rs.20,000/- with one surety in like amount or two sureties in the sum of Rs.10,000- each.

Applicant shall mark his presence with Saki Naka Police Station once in three months on the first day of such month.

Applicant shall produce proof of his residential address to police and update his address in the event same is changed, pending appeal.

(PN. DESHMUKH, J)