

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1106 OF 2016

IN

CRIMINAL APPEAL NO.429 OF 2015

BHIMRAO JAGANNATH KOLI

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Mahesh Vaswani a/w. Manashi Mahanta, Advocate for the Applicant.

Mr.P.H.Gaikwad-Patil, APP for the Respondent - State.

CORAM : A. M. BADAR

DATE : 15th NOVEMBER 2016.

P.C. :

1 This is an application for suspension of sentence and enlarging the applicant / accused on bail.

2 Heard the learned counsel appearing for the applicant / accused. He argued that the applicant is 87% disabled person, unable to lift anything. My attention was drawn to the

photographs of the applicant / accused annexed at pages 66 and 67 to the instant application. It is argued that case of the prosecution is inherently improbable as the applicant is suffering from disability to his both hands, thereby making him unable to lift anything. The applicant was not able to lift his female child nor he was in a position to pour kerosene on person of his wife to set her ablaze. It is further argued that the applicant had not suffered any burn injury in the alleged incident, and therefore, his presence on the scene of occurrence is seriously doubtful. The learned counsel further pointed out that the applicant / accused was on bail during pendency of the trial and had not misused the the liberty. With this, the learned counsel by referring to the judgment of Hon'ble Supreme Court in the matter of Sunil Kumar vs. Vipin Kumar reported in 2014(4) MLJ(Cri) 126 (SC) and Bhagwan Rama Shinde Gosai and Ors. vs. State of Gujarat reported in 1999(3) Crimes 54 (SC) argued that this is a fit case to suspend the sentence and to release the applicant / accused on bail, as there are no chances of his fleeing from the course of justice.

3 Learned APP opposed the application.

4 It is seen that the applicant had, on earlier occasion, moved similar application vide Criminal Application No.443 of 2015 and it was decided on merits by this court on 16th June 2015. The application for suspension of sentence and release of the applicant / accused on bail was rejected at that time.

5 In this view of the matter, entertaining any fresh application would amount to review of the earlier order without there being any change in circumstance.

6 In this view of the matter, no case for suspension of sentence and release of the applicant / accused on bail is made out.

The application is rejected.

(A. M. BADAR, J.)