

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1322 OF 2015**

**IN**

**CRIMINAL APPEAL NO.1026 OF 2015**

**JERIT JOHN GREGORY**

**)...APPLICANT**

**V/s.**

**THE STATE OF MAHARASHTRA & ANR.**

**)...RESPONDENTS**

Shri Amin Solkar, Advocate for the Applicant.

Smt.PP.Bhosale, APP for the Respondent - State.

**CORAM : ABHAY M. THIPSAY, J.**

**DATE : 25<sup>th</sup> JANUARY 2016.**

**P.C. :**

1 Heard Shri Solkar, the learned counsel for the applicant / appellant. Heard Smt.PP.Bhosale, the learned APP for the State.

2 The applicant/appellant was prosecuted on the allegations of having committed offences punishable under Sections 307 of the IPC, 452 of the IPC and 342 of the IPC. The

learned Additional Sessions Judge, however, convicted him only of the offences punishable under Section 326 of the IPC (instead of the offence punishable under Section 307 of the IPC) Section 452 of the IPC and Section 342 of the IPC. The learned Judge awarded a sentence of Rigorous Imprisonment for 5 years and of fine of Rs.10,000/- upon the applicant/appellant with respect to the offences punishable under Section 326 of the IPC and Section 452 of the IPC. The learned Judge imposed the sentence of Rigorous Imprisonment for six months in respect of the offence punishable under Section 342 of the IPC. The sentences have been made to run concurrently.

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

4           The main thrust of the argument advanced by Shri Solkar is on the nature of injury that was allegedly caused to the victim. He submitted that having discarded the theory that the applicant/appellant committed an offence punishable under Section 307 of the IPC, it was necessary for the learned Judge to have come to a conclusion that the injury sustained by the victim was 'grievous hurt', if the applicant/appellant was to be held guilty of an offence punishable under Section 326 of the IPC. He submitted that though such a conclusion is arrived at by the learned Judge, the same is not supported by the medical evidence. The prosecution theory was that the victim was assaulted by throwing acid on her face, but Shri Solkar submits that the evidence did not indicate that what was thrown upon the victim was acid, and that , at any rate, no injury which could be termed as 'grievous hurt' had been caused to the victim.

5           Shri Solkar submitted that the applicant/appellant has already remained in custody ever since his arrest, which period

comes to about 3 years and 3 months. He also submitted that the victim now resides in the United States of America, and thus, there is no likelihood of the applicant/appellant coming in contact with her, if released on bail. It is submitted that since the appeal cannot be taken up for hearing forthwith, the substantive sentences imposed upon the applicant/appellant be suspended.

6           The learned APP has taken me through the evidence of the Medical Officers and also that of the Chemical Analyser (PW18).

7           It is not necessary to go deeper into the matter, except observing that there was no scarring of the skin as per the medical evidence.

8           There are arguable points about the nature of injuries that were caused to the victim; and whether they, or any of them, would qualify as 'grievous hurt' as indicated in Section 320 of the IPC, would need serious consideration.

9            Since the appeal cannot be taken up for final hearing immediately, it would be proper in the circumstances, to allow the application.

8            Pending the hearing and final disposal of the appeal, the substantive sentences imposed upon the applicant/appellant shall stand suspended and the applicant/appellant shall be released on bail in the sum of Rs.25,000/- with one surety in like amount, on the following conditions :

- i) the applicant/appellant shall report to Dadar (West) Police Station on the first Sunday of each calendar month, till the disposal of the appeal.
- ii) The applicant/appellant shall not contact, meet or approach the victim and / or her mother, in any manner, whatsoever.

9            Any default on the part of the applicant/appellant in reporting to the Police station as directed above, shall forthwith be brought by the Inspector in-charge of the Police station to the notice of this court for further appropriate action.

**(ABHAY M. THIPSAY, J.)**