

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1562 OF 2015

IN

CRIMINAL APPEAL NO.1154 of 2015

Shri Runja Laxman Lokhande

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr.Aniket U. Nikam, Advocate for the applicant.

Mr.Shirish Gupte Sr. Advocate i/b Mrs.Mallika Ingale for
Intervenor.

Mrs.P.P. Bhosale, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.**DATED : 11th JANUARY 2016**

P.C. :

1 The Appeal filed by the appellant challenging his conviction of an offence punishable under section 307 of the IPC and section 30 of the Arms Act, as recorded by the learned Addl. Sessions Judge, Nashik has already been admitted. By the present application, the application prays that the substantive sentences imposed upon him, be suspended during the pendency of the Appeal and that, he be released on bail.

2 I have heard Mr.Aniket U. Nikam, learned counsel for the applicant. I have heard Mr.Shirish Gupte, learned Senior Advocate who appeared for one Kantilal Chopda who had sought

intervention in the matter for the purpose of opposing the application for suspension of sentence. I have heard Mrs.P.P. Bhosale, learned APP for the State. With the assistance of the learned counsel, I have glanced through the relevant record which is found not only in the present Appeal, but also in the Appeal that has been filed by the said Kantilal Chopda challenging the adequacy of the sentence imposed upon the present applicant. Though that appeal has not been assigned to this Bench, the record thereof is available before this Bench, and was referred to by the learned counsel for the parties during the hearing of the present application.

3 In respect of the offence punishable under Section 307 of the IPC, the applicant has been sentenced to suffer Rigorous Imprisonment for five years and to pay a fine of Rs.5,000/-. With respect to the other offences, he has been sentenced to suffer Rigorous Imprisonment for three months. It has been ordered that the substantive sentences would run concurrently.

4 The allegation against the applicant, as levelled before the trial Court, was that he had attempted to commit murder of Smt.Shobhana who is the mother-in-law of the said Kantilal Chopda – the intervenor. The allegation is that due to the disputes over land dealings resulting therefrom between the applicant and the said Kantilal Chopda, son-in-law of the said Smt.Shobhana, the applicant attempted to commit her murder. *This murder was, allegedly, attempted to be committed by firing at the closed door of the flat where Smt.Monot resided. In other words, the act done in*

the said attempt towards the commission of murder was of firing at the closed door of the flat.

5 The learned counsel for the applicant contended that the act of firing at the door cannot be construed as the attempt to commit murder. He also pointed out that even otherwise, the firing was not done at the top of the door, across which the vital parts of the body would be expected to be, but on the lower part of the door i.e. about two feet high from the floor.

6 I find that though the applicant was not on bail during the trial, he had no previous criminal history.

7 The applicant has remained in custody ever since his arrest i.e. since 21st October 2014.

8 Arguable points, needing serious consideration, particularly with respect to the nature of the offence held to have been proved, have been raised. The Appeal cannot be taken up for final hearing immediately, and in the ordinary course is not likely to be heard within a short time. Under the circumstances, I am inclined to allow the application.

9 Application is allowed.

10 Pending the hearing and final disposal of the Appeal, the substantive sentences imposed upon the applicant shall stand suspended, and the applicant shall be released on bail in the sum of Rs.25,000/- (Rupees Twenty Five thousand) with one surety in

like amount on the following conditions:-

- i) The applicant shall not contact, meet or approach any of the prosecution witnesses in any manner whatsoever;
- ii) The applicant shall not enter into the local area of Sarkarwada Police Station, Nashik;
- iii) The applicant shall report to the trial court on the first Monday of every calendar month, till the disposal of the Appeal filed by him.

Hearing of the Appeal is ordered to be expedited.

Liberty to the applicant and also to the State, to move the Court for getting a date of the final hearing fixed, after receipt of Record and Proceedings with paper book.

Application is disposed of accordingly.

(ABHAY M.THIPSAY, J)

CERTIFICATE

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