

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.140 OF 2017
IN
CRIMINAL APPEAL NO.79 OF 2017**

Sandip P. Bhoir

)...Applicant

V/s.

State Of Maharashtra

)...Respondent

Mr. K.S.Patil i/by Janita Menzies, Advocates for the Applicant.

Mr. Ameet Palkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 21st MARCH, 2017.

P.C. :

This is an application for suspension of sentence and releasing the Applicant-Accused on bail during the pendency of the appeal filed by him. The Applicant-Accused has been convicted of the offences punishable under Sections 498-A and 306 of IPC. For the offence punishable under Section 306 of IPC, he is sentenced to suffer RI for 4 years apart from payment of fine of Rs.3,000/- and for the offence punishable under Section 498-A of the IPC, he is sentenced to suffer RI for one year apart from

payment of fine of Rs.2,000/-. The appeal filed by him is already admitted for final hearing by this Court.

2 Heard the learned Advocate appearing for the Applicant-Accused as well as the learned APP for the State.

3 According to the learned APP, three incidents are reflected from the judgment and order which demonstrate abetment by the Applicant-Accused to his wife for commission of suicide by her. The learned APP pointed out suicide note written by the deceased-wife and submitted that this is a fit case to sustain the sentence.

4 I have carefully considered the rival submissions and also perused the record made available. On 23.3.2008, the deceased married the Applicant-Accused and started co-habiting with him. On 7.1.2012, she committed suicide by consumption of oregano-phosphate poison. Suicide note written by her reflects that husband used to suspect her character because of receipt of telephone call on her mobile by unknown person. This is construed as abetment of suicide and accordingly, the Applicant-Accused is convicted of the offences punishable under Sections

498-A and 306 of IPC.

5 It is well settled that abetment does not involve actual commission of crime but it is crime apart. Abetment is complete when other is instigated to commit an act of offence. However, at the same time one is also required to keep in mind Section 107 of IPC which requires *mens-rea* and without knowledge and intention, there cannot be abetment. Such knowledge and intention must relate to crime in question. All these aspects will be kept in mind while deciding the appeal. Suffice to state that short sentence of 4 years is imposed on the Applicant-Accused and the appeal filed by him is not likely to hear in near future. Therefore, the Applicant-Accused who was on bail during the pendency of the trial is entitled for liberty till disposal of the appeal and as such, the order:

- (1) Application is allowed.
- (2) Substantive sentence of imprisonment imposed on the Applicant-Accused is suspended and he is directed to be released on bail on executing PR bond in the sum of Rs.15,000/-

and on furnishing surety in the like amount.

(A. M. BADAR, J.)