

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.338 OF 2017

IN

CRIMINAL APPEAL NO.572 OF 2017

Ashok Maruti Orase ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Nilesh Wable i/b. Shriram Chaudhari, Advocate for the Applicant.

Mr.Vinod Chate, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 6th September 2017.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant on bail during pendency of the appeal filed by him which is already admitted for final hearing. The applicant/accused is convicted of offences punishable under Section 304 Part II of the Indian Penal Code and he is sentenced to suffer rigorous imprisonment for seven years apart from directing to pay fine of Rs.5,000/- in default to further undergo imprisonment for six months.

2 Heard the learned Advocate appearing for the

applicant as well as the learned Additional Public Prosecutor appearing for the respondent/State. The learned APP opposed the application by taking me through the evidence of P.W.No.1 Manisha Rathod as well as that of the medical officer to demonstrate that the applicant has committed culpable homicide by assaulting husband of P.W.No.1 Manisha by giving blow on his head. The learned APP contended that considering the nature of offence, the applicant is not entitled for bail.

3 I have carefully considered the rival submissions and also perused the copies of depositions as well as the impugned Judgment and Order of conviction.

4 According to the prosecution case, deceased Nanaji @ Nana Ramtakke was having live-in-relationship with P.W.No.1 Manish Rathod as her husband had abandoned her. On the day of incident i.e. on 12/11/2014, Nanaji @ Nana Ramtakke had bought chicken and returned to house of Manisha Rathod in intoxicated condition. He left the house for bringing lime. In the meantime, Manisha and her son Rahul were having dinner. Infuriated by this conduct of P.W.No.1 Manisha, Nanaji @ Nana Ramtakke created scene and started abusing her. Persons from locality including the present applicant went to the spot and tried to calm down deceased Nanaji @ Nana Ramtakke. He pick up the quarrel with all persons, who gathered there and in that incident,

according to the prosecution case, the applicant gave a blow of stick, which landed on head of Nanaji @ Nana Ramtakke. As a neighbourer, he tried to pacify the quarrel between Nanaji and P.W.No.1 Manisha and that incident, ultimately, resulted in giving blow of stick on head of Nanaji causing his death.

5 Considering the short sentence imposed on the applicant and the fact that his appeal will not come up for final hearing in the near future, the application deserves to be allowed. Hence, the order :

- (i) The substantive sentence imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing P.R.Bond of Rs.15,000/- and on furnishing surety in like amount.
- (ii) As a condition of this Order, the applicant should not commit any offence in future.

(A.M.BADAR J.)