

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.387 OF 2017

IN

CRIMINAL APPEAL NO.216 OF 2017

VIKAS DATTATRAYA SHINDE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Vikas Shivarkar, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 22nd MARCH 2017

P.C. :

1 This is an application for suspension of sentence and releasing the applicant / accused on bail during pendency of the appeal filed by him, which has already been admitted by this court for final hearing. The applicant / accused is convicted of the offence punishable under Section 306 of the IPC and he is sentenced to suffer rigorous imprisonment for 4 years apart from payment of fine of Rs.10,000/-, in default, to undergo further imprisonment for a period of three months.

2 Heard the learned advocate appearing for the applicant / accused as well as the learned APP. It is argued by the learned advocate for the applicant / accused that the deceased is seemed to have committed suicide because of filing of several criminal cases against him by Bajaj Finance Company. My attention is drawn to paragraph 33 of the impugned judgment. Apart from that, it is also argued that short sentence is imposed on the applicant / accused and there is no possibility of hearing the appeal in near future.

3 The learned APP opposed the application by contending that the deceased committed suicide because of constant harassment and torture by the applicant / accused and therefore, he is not entitled for bail.

4 I have considered the rival submissions and also perused the copies of deposition of prosecution witnesses, so also the impugned judgment and order. Babasaheb Kandhare committed suicide and according to the prosecution case, on

account of demanding refunding of the amount advanced to him by the applicant / accused, there used to be constant harassment and torture to the deceased by the applicant / accused. Therefore, the deceased committed suicide on 12th April 2013 by hanging himself.

5 Short sentence is imposed on the applicant / accused and the offence is one punishable under Section 306 of the IPC. In order to make out the offence of abetment *mensrea* is required. The appeal will take its own time for hearing. Hence, the application is allowed and the order follows :

- i) The application is allowed.
- ii) Substantive sentence of imprisonment imposed upon the applicant / accused is suspended and he is directed to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in like amount.

(A. M. BADAR, J.)