

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.533 OF 2017

IN

CRIMINAL APPEAL NO.308 OF 2017

Ajay Gendalal Tripathi)...Applicant

V/s.

State Of Maharashtra)...Respondent

Mr. Sujit Shelar, Advocate for the Applicant.

Ms. A.A.Takalkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 7th April, 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 which is already admitted.

2 The applicant-accused has been convicted of the offence punishable under Section 306 of the IPC and he is sentenced to suffer rigorous imprisonment for 7 years apart from directing him to pay fine of Rs.20,000/- and in default to suffer further rigorous imprisonment for six months.

3 Heard the learned advocate appearing for the applicant-accused. He argued that there is no evidence to show that the applicant-accused has abetted commission of suicide by his deceased wife Archana on 21.4.2012. He further argued that evidence of the prosecution is vague and falsity thereof can be seen from the fact that the Investigating Officer has accepted the fact that accused no.3-brother in law of the deceased was residing separately but still allegations against him as well as father of the applicant-accused were about demand of sexual favour from the deceased. It is further argued that the applicant-accused was on bail during the pendency of the trial.

4 The learned APP opposed the application by contending that evidence of parental relatives of the deceased is pointing out cruelty to the deceased which was sufficient for her to commit act of suicide.

5 I have carefully considered the rival submissions and also perused the impugned judgment and order as well as copies of deposition of witnesses.

6 The term 'Cruelty' as explained in explanation to Section 498-A of the IPC implies harsh and harmful conduct of certain intensity and persistence. It covers acts causing both physical as well as mental agony, torture and tyranny to a married woman. To establish cruelty, acts of accused person must put the victim thereof to intense miseries and woes steering up her feelings that life is not worth living and she should die.

7 In the case in hand, allegations were to the effect that accused persons were demanding money from the deceased for purchasing a house. Secondly, it is alleged that co-accused who are acquitted by the learned trial Court were demanding sexual favours from the deceased. Prima-facie, it is not seen that for forcing the deceased to bring amount, there was illtreatment as envisaged by explanation to Section 498-A of IPC. Averments regarding demand of sexual favours could not find favour with the learned trial Judge because except the applicant-accused-husband, all co-accused are already acquitted.

8 The applicant-accused was already on bail during the pendency of the trial and it is not reported that he had in any

manner has misused his liberty.

9 Considering the nature of offence and evidence in support thereof, I am of the opinion that the applicant-accused deserves liberty during the pendency of the appeal filed by him.

Hence, the following order:

- (1) The application is allowed.
- (2) The 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.)