

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.587 OF 2016

IN

CRIMINAL APPEAL NO.334 OF 2016

Parmeshwar Arjun Jagtap ... **Applicant**

V/s.

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

.....

Mr.Prashant M. Patil with Mr.hrishikesh Giri, Advocate for the Applicant.

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

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CORAM : A.M.BADAR J.

DATED : 23rd June 2017.

P.C. :

1 This is an application for suspension of sentence and releasing the appellant/accused on bail during pendency of the appeal filed by him, which has already been admitted for final hearing by this Court. The appellant/accused has been convicted of the offence punishable under Section 304(B) and 498-A of the Indian Penal Code (hereinafter referred to as “the IPC” for the sake of brevity). For the offence punishable under Section 304(B) of the IPC, he is sentenced to suffer rigorous imprisonment for seven years and for the offence punishable under Section 498-A of the IPC, he is sentenced to suffer rigorous imprisonment for one year. In addition, fine of Rs.5000/- has been imposed on him.

2 Heard the learned Advocate appearing for the appellant/accused. He argued that the learned trial Court erred in convicting the appellant/accused for the offence punishable under Section 304(B) of the IPC when there was no charge against him for the said offence. He further argued that throughout pendency of the trial, the appellant/accused was on bail.

3 The learned Additional Public Prosecutor opposed the application by contending that death of a married woman took place within four and half years from her marriage with the present applicant and the trial Court has correctly convicted the appellant/accused.

4 Undisputedly, the appellant/accused was on bail during pendency of the trial. It is not in dispute that the charge for the offence punishable under Section 304(B) of the IPC was not framed and explained to the appellant/accused. In paragraph 27 of its judgment, the learned trial Court categorically came to the conclusion that there is no direct evidence against the appellant/accused for the offence punishable under Section 306 of the IPC.

5 In the wake of this fact situation and keeping in mind the fact that the appeal may not be heard in near future, the application deserves liberty and, therefore, the order :

- (i) The application is allowed.
- (ii) The substantive sentence of imprisonment imposed on the appellant/accused is suspended and he is directed to be released on bail on executing personal bond of Rs.15000/- and on furnishing surety in the like amount.

(A.M.BADAR J.)