

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 1420 OF 2017
IN
CRIMINAL APPEAL NO. 858 OF 2017**

Atmaram Baburao KumbharApplicant
Versus
The State of MaharashtraRespondent

Mr. Umesh H. Pawar for the applicant.
Mrs. M.R. Tidke, APP for the respondent/State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 12th OCTOBER, 2017***

P.C. :

1. The applicant herein was an accused in Sessions Case No.26 of 2014 on the file of Additional Sessions Judge, Islampur. By this application, the applicant herein has sought suspension of execution of sentence imposed vide judgment dated 19th August, 2017 in the said case and has prayed for release on bail.

2. Heard the learned counsel for the applicant and the learned APP for the State. Perused the record and considered the submissions advanced by the learned Counsels for the respective parties.

3. The applicant herein was prosecuted for offences under Section 306 and 498-A of the Indian Penal Code. By judgment dated 19th August, 2017, the applicant has been held guilty for offence punishable under Section 306 of the Indian Penal Code and sentenced to suffer

rigorous imprisonment for three years and also directed to pay fine of Rs.3,000/- in default to suffer further rigorous imprisonment for one month. He was also convicted for offence under Section 498-A of the Indian Penal Code and has been sentenced to suffer rigorous imprisonment for six months and also directed to pay fine of Rs.2,000/- in default to suffer further rigorous imprisonment for fifteen days.

4. The case of prosecution in brief was that the marriage of applicant and the deceased Lata was solemnized in the year 2006. Said Lata committed suicide on 06th March, 2014. Pursuant to the complaint lodged by the brother of the deceased Lata, offence under Section 498-A and 306 of Indian Penal Code came to be registered against the applicant. Upon completion of the investigation, charge sheet came to be filed and the case was committed in the Court of Additional Sessions Judge, Islampur. The Additional Sessions Judge recorded the evidence and upon considering the evidence adduced by the prosecution, held the applicant guilty of the offences under Section 306 and 498-A of Indian Penal Code and sentenced him as stated above.

5. The records reveal that the deceased Lata had committed suicide more than seven years after her marriage and that during the seven years of marriage, there was no complaint of ill treatment or cruelty. The evidence of the defence witness, *prima facie*, reveals that the deceased was taking treatment for mental illness. The records also reveal that Lata had left the matrimonial home on 2nd January, 2014

and that the applicant had lodged a missing report. It was revealed that the deceased Lata was residing in her paternal home. She had committed suicide at her paternal home about three months after she had left her matrimonial home. The nature of the allegations and the evidence in support thereof would justify suspension of execution of substantive sentence.

6. The records further reveal that the applicant has been sentenced to undergo short term imprisonment of three years. The appeal is of the year 2017 and is not likely to come up for final hearing in the next couple of years due to large pendency of old cases. Hence, rejection of the application will result in the applicant undergoing the sentence of imprisonment even before the appeal is heard on merits.

7. The applicant was on bail during the pendency of the Special Sessions Case No. 26 of 2014. There is nothing on record to indicate that the applicant has violated the terms and conditions of the order.

8. Considering all the facts and circumstances, in my considered view, this is a fit case to suspend execution of substantive sentence pending the disposal of the appeal on merits. Hence, the order :-

(i) The Criminal Application No.1420 of 2017 is allowed.

(ii) The execution of sentence imposed in Sessions Case No. 26 of 2014 vide judgment dated 19th August, 2017 is suspended till disposal of the appeal on merits, subject to the applicant furnishing fresh bail

bond of Rs.20,000/- (Rupees Twenty Thousand) with one or two solvent sureties in the like amount, to the satisfaction of Additional Sessions Judge, Islampur.

(iii). The applicant shall furnish his permanent as well as temporary address, if any, and his contact number and shall intimate change of address and contact number, if any, to the Investigating Officer, as well as to the concerned Court.

(iv). All concerned to act on an authenticated copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)