

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1550 OF 2016

AND

CRIMINAL APPLICATION NO.1551 OF 2016

IN

CRIMINAL APPEAL NO.14 OF 2017

DILIP PRALHAD PAHADE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.

)...RESPONDENTS

Mr.Dipak Churi, Advocate for the Applicant.

Ms.V.S.Mhaispurkar, APP for the Respondent – State.

Mr.Madhukar Y., Advocate for Respondent No.2.

CORAM : A. M. BADAR, J.

DATE : 14th MARCH 2017.

P.C. :

1 These are applications for suspension of sentence and releasing the applicant / accused on bail during pendency of the appeal filed by him.

2 The applicant / accused has been convicted of offences punishable under Sections 307 and 506 of the IPC and has been sentenced to suffer rigorous imprisonment for 5 years apart from payment of some fine.

3 Heard the learned advocate appearing for the applicant / accused. He argued that allegations against the applicant / accused were to the effect that on 13th October 2014 he had attempted to commit murder of his wife i.e. PW1 Anita Pahade. The learned advocate further argued that there is no medical evidence on record to infer commission of the offence punishable under Section 307 of the IPC. In addition, he further argued that he has two children from the informant / PW1 Anita Pahade / the injured and looking to the future of their children, injured / informant / PW1 Anita Pahade has settled issues with the applicant / accused.

4 The learned APP opposed the applications by contending that medical certificates were admitted by the

applicant / accused before the trial court and as such, there was no necessity to examine the doctor to prove those certificates. She further argued that considering the nature of offence, the application deserves to be dismissed.

5 The applicant / accused has arraigned the first informant / Anita Pahade as respondent no.2 and Mr.Madhukar, the learned advocate appearing respondent no.2 has tendered the affidavit of respondent no.2 on record and argued that considering *inter se* relations between the parties and the fate of two children of the couple, she has decided to put an end to the legal wrangle between her and her husband. The learned advocate appearing for PW1 injured / informant drew my attention to paragraph 4 of her affidavit and submitted that the injured / informant has no objection if her husband – the applicant before this court is released on bail.

6 I have carefully considered the rival submissions and also perused the copies of deposition of witnesses examined

by the prosecution and particularly, that of PW1 Anita Pahadi. Undisputedly, the Medical Officer has not been examined by the prosecution. It is in evidence of PW1 Anita Pahadi that on 13th October 2014 the applicant i.e. her husband informed her that he is selling his motorcycle. Evidence of PW1 Anita Pahadi shows that when she resisted this move, the applicant / accused took up a sickle and gave blows thereof to her and also pressed her neck. It is, thus, seen that the incident took place all of a sudden, when move of the applicant / accused to sell out his motorcycle is opposed by his wife. It is in this peculiar circumstance of eruption of quarrel, one will have to decide whether the applicant / accused had intended to commit murder of his wife or whether he intended to inflict some other injury to her in order to resist her protest. It is, in this view of the matter, that the applicant / accused deserves liberty, and therefore the order :

- i) The applications are allowed.
- ii) Substantive sentence of imprisonment imposed upon the applicant / accused is suspended and the applicant / accused is directed to be released on bail on his

executing PR.Bond in the sum of Rs.15,000/- and on furnishing surety in like amount.

iii)As a condition of this order, the applicant / accused should not cause any harm to first informant PW1 Anita Pahadi and he should not subject her to cruelty in any manner. Breach of this condition, shall result in forfeiting liberty of the applicant / accused by taking recourse to appropriate proceedings.

(A. M. BADAR, J.)