

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO.71/2017
IN CRIMINAL APPEAL NO.35/2017

Bhaskar s/o Devidas Meshram ..vs.. State of Maharashtra thr. PSO P. S.
Gadchiroli, Dist. Gadchiroli.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S. V. Sirpurkar, Advocate for applicant.
Ms T. Udeshi, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : JULY 1, 2017

Heard learned counsel for the parties.

This is an application for suspension of substantive jail sentence and for grant of bail. The applicant is convicted by the learned Additional Sessions Judge, Chandrapur on 21.12.2016 in Sessions Trial No.100/2015 for the offence punishable under Section 304-I of the IPC and directed that the applicant shall suffer rigorous imprisonment for 10 years and to pay a fine of Rs.1,000/- in default to suffer further rigorous imprisonment for three months.

The applicant was prosecuted for committing murder of his wife-Ujwala. According to the prosecution, the applicant, who is a truck driver, came back to his house from his work since his co-driver took the vehicle. When he came to the house, he noticed his wife, the deceased in compromising position with his younger brother. Therefore, the applicant lost control and made an assault on his wife in which she died.

In my view, the learned Judge of the Court below has rightly convicted the applicant for the offence punishable under Section 304-I and not under Section 302 of the IPC. Here, the question is only of bail. The applicant has already suffered about 2 years in jail. The learned counsel for the applicant submitted that he has three small children and there is nobody to look after them. The applicant is not a criminal. No previous criminal history is shown against the present applicant.

In view of the background in which the applicant has committed the offence and looking to the pendency of old appeals for hearing, in my view, this is a fit case wherein this Court should exercise the discretion in favour of the applicant.

Hence, the application is allowed. The substantive jail sentence imposed upon the applicant by Additional Sessions Judge, Chandrapur by order dated 21.12.2016 in Sessions Case No.100/2015, shall stand suspended. The applicant be released on bail on he executing PR bond in the sum of Rs.5,000/- with one surety in the like amount before the lower Court. The applicant shall not be released on bail, unless the amount of fine is deposited.

The applicant shall remain present before this Court at the time of final hearing of the appeal.

JUDGE