

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

CRIMINAL APPLICATION (APPA)NO. 438 OF 2017

IN

CRIMINAL APPEAL NO. 255 OF 2017

**(Bandu Nanaji Moon..vs..The State of Maharashtra, through
PSO.PS.Gadchandur,Tq.Korpana,District-Chandrapur)**

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

Court's or Judge's orders.

Shri Suyash Agrawal, Advocate for applicant.
Shri Indranil Damle, A.P.P. for State.

CORAM : V.M. DESHPANDE, J.

DATED : JULY 24, 2017

Heard learned counsel for applicant and learned
A.P.P. for State.

This is an application for suspension of jail
sentence and grant of bail.

This Court on 14/6/2017 admitted the appeal and
directed that present application will be considered after
receipt of the record and proceedings.

The record and proceedings are received.

The applicant is convicted by the learned
Additional Sessions Judge, Chandrapur for the offence
punishable under Section 498-A of the Indian Penal Code and
sentenced to suffer R.I. for two years and to pay fine of Rs.
5000/- and in default of payment of fine amount further to
suffer S.I. for one month. He is also convicted for the offence
punishable under Section 304-B of the Indian Penal Code and
sentenced to suffer R.I. for seven years and to pay fine of Rs.
10000/- and in default of payment of fine amount further to

suffer S.I. for three months.

Though the applicant was convicted by learned Judge of the Court below his parents were acquitted by the learned Judge from all the offences.

After hearing the learned counsel for applicant and learned A.P.P.for State and after perusing record and proceedings this Court noticed that a statement was made by deceased Rina on 17/5/2013 which is available on record at Exh.83. This statement was recorded by A.S.I.Shalik Mahadeo Umare(PW6). His evidence shows that after discharge from the hospital Rina, the present applicant and her father Hiranman Bhiwaji Karade(PW2) were present in the police station and in presence of Hiranman(PW2) she made statement(Exh.83) which clearly shows that due to some mental tension she consumed latrine acid. She has clearly absolved her parents in law. She has further stated in her statement that she was taken to hospital by her husband-present applicant alone.

Looking to the nature of the evidence as brought on record by the prosecution witnesses and statement (Exh.83) made by deceased Rina herself in the police station in my view, the applicant has made out a prima facie case for releasing him on bail. The applicant was on bail during the trial and at no point of time he has misused the liberty is the submission made by the learned counsel for the applicant. Hence, order.

ORDER

- I) Criminal Application No.438/2017 is allowed.
- II) The substantive jail sentence passed by learned Additional Sessions Judge, Chandrapur on 23/5/2017 in S.T.No.126/2013 shall remain suspended during the pendency of the present appeal.
- III) The appellant-applicant be released on bail on his executing P.R.Bond of Rs. 5000/- with one solvent surety in the like amount.
- IV) The learned Additional Sessions Judge, Chandrapur before whom the bail bond will be executed shall ensure that the applicant-appellant has deposited the entire fine amount before his release on bail.
- V) The applicant-appellant shall remain present before this Court at the time of final hearing.
- VI) With this the application is allowed and disposed of accordingly.

JUDGE