

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4 OF 2018

IN

CRIMINAL APPEAL NO.3 OF 2018

Vijay Parshuram Panvelkar ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Uday P. Warunjikar for the applicant.

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

CORAM: A.M. BADAR, J.

DATED: 17th JANUARY 2018

PC:-

1. This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him which is already admitted for final hearing. The applicant/accused was convicted of the offence punishable under section 307 of the Indian Penal Code and

he is sentenced to suffer rigorous imprisonment for five years and in default to pay fine of Rs. 5,000/-.

2. Heard the learned advocate appearing for the applicant/accused. He argued that during the pendency of the trial, the applicant was on bail and he had not misused his liberty. The learned advocate further argued that the prosecution has failed to prove burns allegedly suffered by the alleged victim of the crime in question. Though according to the prosecution case, in all three persons has committed the crime in question, only the present applicant was put up to the trial. It is further argued that the incident in question is totally improbable, as according to the prosecution case, injured/ first informant Switi came out of her house at 2.00 a.m. of 2.2.2014 to answer nature's call and at that time three persons including the present applicant had set her on fire. It is further argued that on considering the inimical relations between the parties possibility of false implication of the applicant cannot be ruled out.

3. The learned APP opposed the application by contending that evidence of the injured witness is required to be accepted as the said is not suffering from any infirmities. The learned APP further relied on provision of Section 32(2) of the Evidence Act to demonstrate that evidence of Dr. Sidharth Sharma can be considered for proof of discharge summary and as the victim of the crime has suffered 35% burn injuries the applicant is not entitled for bail.

4. I have considered the rival submissions and also perused the impugned judgment and order as well as copies of deposition of prosecution witnesses.

5. It is the case of the prosecution that when injured Switi, had came to Panvel for getting back the hand loan advanced by her as well her husband to the applicant, she was burnt by the present applicant alongwith his two associates at 2.00 a.m. of 2.2.2014.

6. During the pendency of the trial, the applicant was on bail. It is not reported that he has misused his liberty. The appeal filed by the present applicant, may not be heard in five years considering the pendency of the jail appeals before this Court. Short sentence of imprisonment was imposed on the applicant who was on bail. Hence the following order.

ORDER

- (i) The application is allowed.

- (ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.

(A.M. BADAR, J)