

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.122 OF 2018

IN

CRIMINAL APPEAL NO.529 OF 2014

Matin Nabib Shaikh.

]

... Applicant /
Orig. Accd. No.2

Versus

The State of Maharashtra.

]

... Respondent

Mr. A. P. Mundargi i/b Mr. Satyavrat Joshi & Mr. Nitesh Mohite for
Applicant.

Mrs. M. M. Deshmukh APP for State.

CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.

DATE :- 19 JULY, 2018

P. C. :-

1. This is an application for suspension of sentence and grant
of bail during pendency of the Appeal.

2. Heard Mr. Mundargi, learned Counsel for the Applicant
and Mrs. M. M. Deshmukh, learned APP for State.

3. Mrs. Deshmukh, learned APP for State, vehemently opposed the application. She submitted that the application of the co-accused, who is attributed the similar role, has been rejected by this Court vide order dated 29th September, 2014.

4. We have perused the material on record.

5. The Applicant, along with others, has been convicted for commission of the offence punishable under Section 307 of the IPC. The Applicant is the brother of the estranged wife of the victim.

6. It appears that the incident took place on account of the matrimonial dispute between the victim and his wife who is also an accused.

7. Taking into consideration the nature of injury, we are *prima facie* of the view that the maximum sentence of life imprisonment would not be warranted in the facts of the present case. The learned trial Judge has also not given the reasons in support of imposition of the highest penalty.

8. Assuming that normally for conviction under Section 307 of the IPC, seven years imprisonment is imposed, the Applicant has already undergone more than half of that.

9. Insofar as the rejection of the application of the co-accused is concerned, the same is rejected vide the order dated 29th September, 2014 i.e. almost prior to four years from today.

10. We find that undergoing more than half of the sentence which is normally imposed for an offence punishable under Section 307 of the IPC, would be a change of circumstance for considering the present application. In that view of the matter, we are inclined to allow the application.

11. Hence, the order :

ORDER

- (i) The order of sentence is suspended.
- (ii) The Applicant is directed to be released on bail on his furnishing a P.R. bond in the sum of Rs.15,000/- with one or more sureties in the like amount.

- (iii) The Applicant shall report to Bhosri Police Station on first and third Monday of every month.
- (iv) The Applicant shall not enter the area of Khandala Police Station, Satara District, till the disposal of the Appeal.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)