

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.363 OF 2018
IN
CRIMINAL APPEAL NO.994 OF 2017

Jafar Mehaboob Shaikh.] Applicant /
Appellant
Versus

The State of Maharashtra.] ... Respondent

Ms. Nagma Tandon for Applicant / Appellant.
Mr. H. J. Dedhia, APP for State.

**CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.**
DATE :- 14 AUGUST, 2018

P. C. :-

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

2. The prosecution story is that the deceased was having love relationship with the present Appellant. It is the prosecution case that since the deceased was not responding to his calls, he got angry and trespassed into her house and set her on fire.

3. The deceased was admitted in the hospital on 25/03/2011. The FIR was lodged on 07/04/2011 on which date the police recorded her statement. From 07/04/2011 to 30/05/2011, she was hospitalized and she was discharged against the medical advice. However, during that period, her dying declaration was not recorded by the Executive Magistrate.

4. Dr. Mahesh Kudale who is examined as a Medical Officer, has deposed that when she was discharged, she was able to walk, speak, sit and eat food. The prosecution has not explained as to why though the deceased could have given her statement, from 07/04/2011 till 35/05/2011, her dying declaration was not recorded by the Executive Magistrate.

5. In that view of the matter, we find that the Applicant has good case on merits. Hence, the order.

ORDER

- (i) Application is allowed.
- (ii) The order of sentence is suspended during pendency of the present Appeal.

- (iii) The Applicant be released on bail, on his furnishing P.R. bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)