

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 503 OF 2018****IN****CRIMINAL APPEAL NO. 350 OF 2018**

Santosh Balasaheb Patil

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. S.P. Kadam a/w S.D. Chavan, Chirag Joshi and Abhijit Gaikwad for
the Applicant.

Mr. V.V. Gangurde, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.**DATE : 26th MARCH, 2018.****P.C.:-**

This is an Application for suspension of sentence and for
releasing the Applicant on bail.

2 Heard the learned counsel appearing for the Applicant and
the learned APP for the State. Perused the record.

3 The Applicant is convicted for an offence punishable under
Section 307 of the Indian Penal Code and sentenced to suffer rigorous
imprisonment for 5 years and to pay a fine of Rs.5,000/- (Rupees Five
Thousand only) and also to pay compensation of Rs.50,000/- (Rupees
Fifty Thousand only) to the injured Smt. Mandakini Jadhav.

4 The learned counsel appearing for the Applicant submitted that as per the directions issued by the Trial Court, the Applicant will deposit the said amount of compensation in the Trial Court within a period of three weeks from today. The said statement is accepted.

5 It is the prosecution case that, the injured had retired and was expecting certain funds from her employer. That, the accused demanded certain amount from her for purchasing a residential flat at Pune and on her refusal to pay the amount, the Applicant assaulted her with a knife. Thus, the prosecution has propounded the theory of assault on the injured by the Applicant with a weapon-knife. The Medical Officer (PW. 12), in his cross-examination has admitted that out of the six injuries received by the injured, five injuries were simple in nature and the life threatening injury i.e. injury No.2 was caused because of a blunt object like stick, iron rod or due to the part of the body struck with hard and blunt object. Thus, it is *prima facie* appears that there is a material contradiction in the theory propounded by the prosecution and the admissions given by the Medical Officer in cross-examination.

 It is submitted by the learned counsel appearing for the Applicant that during the pendency of the trial, the Applicant was on

bail and there is no report of breach of any of the bail conditions.

6 In view of above and in view of the fact that the maximum sentence imposed upon the Applicant is 5 years of imprisonment, and the possibility of the Appeal being finally heard on merits in the near future is remote, I am inclined to release the Applicant on bail. Hence the following order-

- a) During the pendency of the Appeal, the substantive sentence imposed upon the Applicant is suspended and the the Appellant is released on bail in Sessions Case No. 26 of 2012, arising out of C.R. No. 142 of 2011, registered with Islampur Police Station, District Sangli on his furnishing PR bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two solvent local sureties in the like amount.
- b) During the pendency of the Appeal, the Applicant shall attend and mark his presence before the Trial Court on every Third Saturday of the month between 11.00 a.m. to 2.00 p.m.. If the said Saturday is a Court holiday/Public holiday then the

Applicant shall attend the Trial Court on the
immediate next working day.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)