

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1092 OF 2016

IN

CRIMINAL APPEAL NO.16 OF 2016

AMIR ISMAIL PATEL @ AMMU

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Aniket Vagal, Advocate for the Applicant.

Mr.A.R.Kapadnis, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 1st AUGUST 2018

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him. The applicant/accused is convicted of offences punishable under Sections 307, 324 and 506 of the Indian Penal Code. The applicant/accused has been sentenced to suffer rigorous imprisonment for 10 years for the offence punishable under Section 307 of the Indian Penal Code. As other

sentences are directed to run concurrently, it is not necessary to mention those sentences.

2 Heard the learned Advocate appearing for the applicant/accused. He argued that though earlier application for suspension of sentence has already been rejected by this court, now with passage of time, the applicant/accused has undergone 5 years of rigorous imprisonment as of now, and during trial the injured was not examined. This prevented the applicant/accused to cross-examine the injured.

3 The learned APP opposed the application.

4 I have carefully considered the submissions so advanced. It is not necessary that in absence of examination of the injured, the offence punishable under Section 307 of the Indian Penal Code cannot be made out, particularly when eye witnesses are examined by the prosecution.

5 Passage of 5 years of time by itself cannot make the applicant entitled for suspension of sentence and his release on bail, particularly when the appeal itself is ripe for final hearing. No change in circumstance is demonstrated after rejection of his earlier application by the present applicant/accused. Hence, the order :

ORDER

- i) The application is rejected.
- ii) Put up for final hearing in the week commencing from 6th August 2018.

(A. M. BADAR, J.)

Arti
Vilas
Khatate

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