

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1719 OF 2017  
IN  
CRIMINAL APPEAL NO. 728 OF 2017**

**Pradip Sambhaji Gawade**

**... Applicant**

**Versus**

**The State of Maharashtra**

**... Respondent**

Mr. Aniket Nikam a/w Mr. Piyush Toshnival I/b Mr. Aashish Satpute for the Applicant.

Mr. Prashant Jadhav, APP for the State.

**CORAM : A. M. BADAR, J.**

**DATE : 23<sup>rd</sup> JANUARY, 2018.**

**P. C.**

1. This is an application for suspension of sentence and releasing the applicant/accused No.3 on bail during pendency of the appeal filed by him. By the impugned judgment and order dated 19/08/2017 in Sessions Case No. 50 of 2014, the applicant along with the co-accused came to be convicted for offences punishable under Sections 498-A, 306 and 304-B read with 34 of the Indian Penal Code. Substantive sentences imposed upon him

on each count are directed to run concurrently and the highest sentence imposed on the applicant/accused is of 7 years for the offence punishable under Section 304-B of the Indian Penal Code.

2. Heard the learned Advocate appearing for the applicant/accused No.3. He submitted that prima-facie, no offence punishable under Section 304-B of the Indian Penal Code is made out by the prosecution for a period of three months from lodging the FIR. No allegations in respect of the offence punishable under Section 304-B of the Indian Penal Code were on record of the Investigator. Those averments have surfaced after three months as is seen from the evidence of the Investigating Officer.

3. The learned APP opposed the application by pointing out evidence of P.W.1 Ram Shelke and P.W.2 Sou. Shobha Ram Shelke – parents of the deceased and submitted that evidence of P.W.2 - Shobha shows that when the deceased had been to her parental house for the festival of Rakshabandhan, she was not found to be wearing gold ornaments. The deceased had disclosed to her parents that her in-laws and her husband were ill treating her by demanding a four wheeler vehicle i.e. car of Indica make.

4. I have considered the rival contentions and perused of deposition of witnesses as well as the impugned judgment and order.

5. Undisputedly, the applicant/accused was in jail during pendency of the trial. Short sentence of seven years of imprisonment is imposed on him. Cross examination of the Investigating Officer P.W. No.4 -Ratansing Rajput shows that allegations in respect of the offence punishable under Section 304-B of the Indian Penal Code are found in the supplementary charge-sheet filed on 26/11/2009. Deposition of parents of deceased Shital reveals that such averments are made subsequently. Considering this nature of evidence against the applicant/accused as well as the fact that he was on bail during pendency of the appeal and short sentence of imprisonment is imposed on the applicant-accused, the following order:

### **ORDER**

- (i) The Application is allowed.

- (ii) Substantive sentences of imprisonment imposed on the applicant 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 like amount.
- (iii) The application stands disposed of accordingly.

**( A. M. BADAR, J. )**