

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

**CRIMINAL APPLICATION NO.1720 OF 2017
IN
CRIMINAL APPEAL NO.980 OF 2017**

Jalandhar Jangiprasad Chauhan

..Applicant

Versus

The State of Maharashtra

..Respondent

Ms. Anjali Patil a/w Mr. Arun Rajput, Mr. Shivam Bhagwati i/by Mr. Ajinkya Badar, Advocate for the Applicant.

Mr. H. J. Dedhia, APP for the Respondent - State.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 6th JUNE, 2018**

PC.

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

2] The Applicant is convicted for the offence punishable under Section 302 of the Indian Penal Code ("IPC" for short) for causing death of his wife Rita and was sentenced to suffer rigorous imprisonment for life and pay a fine of Rs.1000/- and in default of payment of fine, he shall suffer rigorous imprisonment for three months.

3] Heard learned counsel for the Applicant and Mr. H. J. Dedhia learned APP.

4] Mr. H. J. Dedhia, learned APP vehemently opposed the application. He submitted that the learned Trial Judge on an correct appreciation of evidence has passed an order of conviction and as such, the Applicant is not entitled to grant of bail.

5] As held by the Apex Court in the case of Niranjan Singh and another Vs Prabhakar Rajaram Kharote and others reported in (1980) 2 SCC 559 elaborate discussion of evidence at the stage of grant of bail will have to be avoided.

6] It is to be seen from the record and particularly evidence of PW-6 Dr. Ashok Shah who was Plastic Surgeon at the relevant time in J. J. Hospital that the Applicant was admitted on 8th March 2014. His evidence shows that the Applicant received burn injuries to his face, neck, upper part of chest and right superior extremity, right inferior extremity and both hands. The cross-examination of said witness would clearly reveal that the injuries received by the Applicant can be caused, if a person is trying to save someone who had already caught fire. PW-6 has clearly admitted that in such a situation person who is trying to save other, may receive such injuries. The nature of injuries sustained by the Applicant were severe in nature. He has opined that from the nature of injuries sustained, it was possible that Applicant had made very conscious

efforts to save the person, who has already received burn injuries.

7] The Applicant has examined himself as PW-1. He has stated that when he got up for natural call and he was returning from the latrine, he noticed fire in the kitchen of his house. He ran towards the kitchen. His wife Rita was found burning. He put up quilt on her person. While extinguishing fire, he sustained burn injuries to his both hands and chest. He shouted for help to the neighbours gathered there. Since his son had woken up, he came out alongwith his son. At that time, the brothers of the deceased came there and started beating him. He ran and while making an attempt to save himself boarded the train. He was assaulted by his wife's brothers at Mumbra Railway Station in a local.

8] By now, it is settled position of law that the defence witnesses are also entitled to the same treatment as that of prosecution witnesses. Apart from that the evidence of PW-5 Vijay Mhasal would also corroborate the version given by the Applicant that the Applicant was caught hold by the brothers of the deceased alongwith Police at Mumbra Railway Station.

9] Though according to the prosecution, a large number of neighbours had assembled there, except brother and sister of the

deceased, no one has been examined.

10] In that view of the matter, we find that the Applicant has a good case on merits. The Applicant is already in custody for a period of more than four years.

11] The application is therefore allowed. The order of sentence is suspended. The Applicant is directed to be released on bail on furnishing bail bonds in the sum of Rs.15,000/- with one or more sureties in the like amount. The Applicant shall report to Rabale Police Station on 1st and 15th of every month.

[SARANG V. KOTWAL, J.]

[B. R. GAVAI, J.]