

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO. 525 OF 2018
IN CRIMINAL APPEAL (APEAL) NO. 364 OF 2018

(Kiran Sukhdev Muley vs. The State of Maharashtra thr. PSO, PS Hiwarkhed, Tq. Khamgaon,
District - Buldhana)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : S.B. SHUKRE &
S.M. MODAK, JJ.
DECEMBER 18, 2018.

Heard Shri S.V. Sirpurkar, learned counsel for the applicant - appellant and Shri A.V. Palshikar, learned APP for the respondent.

The Criminal Appeal has been admitted. The applicant – appellant, who is accused No. 2 in the present case was on bail during the course of trial.

It is seen from the record that the evidence which has been considered, as going against this applicant, by the trial Court is in the nature of Dying declaration vide Exh. 59. The relevant portion of this dying declaration is that this accused had passed a remark in the presence of the deceased and her husband that if the deceased had been his wife, he would have killed her because of her intolerant remark that her husband should not have invited the persons who consume liquor. This evidence has been treated as sufficient for convicting the applicant for the offence punishable under Section 302 with aid of Section 109 of the Indian Penal Code.

The issue raised in the appeal requires consideration, having regard to the definition of the term abetment or instigation appearing in Section 107 of I.P.C.

Taking an overall view of the matter, we are of the opinion that this applicant deserves to be granted bail by suspending his substantive sentence of imprisonment.

The substantive sentence of imprisonment is hereby suspended till the final disposal of the Appeal, subject to the condition that the applicant - appellant shall deposit the fine amount.

The applicant shall be released on bail till the final disposal of the appeal on furnishing P.R. Bond in the sum of Rs.50,000/- with one solvent surety in the like amount, on the condition that the applicant shall appear before this Court as and when he is directed to do so. Criminal Application is allowed accordingly.

JUDGE

JUDGE

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