

Anand

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

**CRIMINAL APPLICATION NO. 162 OF 2019
IN
CRIMINAL APPEAL NO. 1280 OF 2018**

Deepak alias Sonu Ashok Pardeshi .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. A. P. Mundargi, Senior Counsel i/b. Mr. D. Panchange a/w
Mr. S. R. Chopade-Patil, for the Applicant
Mr. S. V. Gavand, APP, for the Respondent – State
Mr. G. Tamboli, Advocate, for the wife of the Applicant

CORAM : REVATI MOHITE DERE, J.

DATE : 12.03.2019

P.C.

. By this Application, the Applicant seeks suspension of his sentence pending the hearing and final disposal of the aforesaid Appeal.

2. Mr. Mundargi, Learned Senior Counsel for the Applicant states that the Applicant was on bail during trial and that the Applicant has not misused / abused the liberty granted to him. He submitted that the Applicant's wife i. e. P. W. 5 – Komal had turned hostile and as such, had denied that the Applicant had

fired at her from a country made pistol. He further submits that the Applicant and P. W. 5 – Komal were residing together with their two small children, during the period when the Applicant was on bail. Learned counsel for Komal (PW.5) i. e. the Applicant's wife has tendered an Affidavit stating therein, that she and the Applicant are residing together. She has further stated that she has been detected with HIV in 2016 and is undergoing treatment for the same and that there is none to look after the children.

3. The Applicant has been convicted for the offences punishable under Sections 307, 323, 504 & 506 of the Indian Penal Code and has been sentenced to suffer R. I. for five years for the offence punishable under Section 307 of the Indian Penal Code. This Court (Coram : Smt. S. S. Jadhav, J.) having regard to the facts of this case, had issued notice for enhancement of the Applicant's sentence and had directed that notice be served upon the Appellant, who is lodged in Nashik Central Jail. The order dated 05.03.2019 shows that the said notice has been waived by the Applicant's Advocate. Be that as it may, the sentence imposed is a short term sentence and the Applicant was on bail pending

trial. Learned APP has also not shown that the Applicant, whilst on bail, had misused / abused his liberty. Having regard to the aforesaid, the Application is allowed and the Applicant 's sentence is suspended, pending the hearing and final disposal of his Appeal on the following terms & conditions :-

O R D E R

(i) The Applicant be released on bail on his furnishing P. R. Bond in the sum of Rs. 15,000/- with one or two local sureties in the like amount;

(ii) The Applicant shall report to Court of Sessions, Pune once in three months, on the date as specified by the Sessions Judge, till the conclusion of the appeal;

(iii) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.

4. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)