

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

**CRIMINAL APPLICATION NO. 234 OF 2019
WITH
CRIMINAL APPLICATION NO. 297 OF 2019
IN
CRIMINAL APPEAL NO. 349 OF 2019**

Ahmed Raza @ Savio Gems Joseph

..Appellant

Vs.

The State of Maharashtra

..Respondent

Mr. Satyajit J. Lonkar for applicant.

Mr. Sandeep Bali for intervenor.

Mr. Y.M. Nakhwa- APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 10th JUNE, 2019.

P.C.

1. Heard.

2. This is an applications filed under Section 389 of Cr.P.C. The applicant herein is seeking suspension of substantive sentence imposed upon the applicant by learned Additional Sessions Judge, Pune in Sessions Case No. 743 of 2013 vide judgment and order dated 31st October 2018. The applicant herein is convicted for the offences punishable under Section 307 and he is sentenced to suffer R.I. for five years and to pay fine of Rs. 3,000/- (Rupees Three Thousand Only), in default, to suffer S.I. for three months. The appellant is also convicted for the offence under section 326 of the Indian Penal Code and he is

sentenced to suffer R.I. for two years and to pay fine of Rs. 2,000/- (Rupees Two Thousand Only), in default, to suffer S.I. for one month.

2. Perused the evidence of the injured who happens to be his wife. She has deposed before the Court the circumstances in which she was attacked by the appellant at about 5.00 a.m. on 19.05.2013. She has stated that she was assaulted by knife on her face, neck, nose and cheek. The allegations are corroborated by PW-5 Dr. Zulphakar, who has proved the injury certificate at Exhibit-27. According to Dr. Zulphakar the complainant had sustained 6 lacerated injuries on her right cheek, 7 lacerated injuries on her right side neck, laceration over the left angle of neck, laceration over the first web space.

3. There is sufficient material to indicate that the injured had sustained injuries while in custody of the appellant who happens to be her husband. There is no plausible explanation under section 106 of the Indian Evidence Act.

4. In view of this, the applications seeking suspension of substantive sentence and enlargement on bail deserve to be rejected.

5. Call for records and proceedings alongwith paper-book.

(SMT. SADHANA S. JADHAV, J)