

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1158 OF 2019

IN

CRIMINAL APPEAL NO.53 OF 2018

RAHUL RADHESHAM SAWALE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Jatin Sahai i/b. C.K.Legal, Advocate for the Applicant.

Mr.Amit Palkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 5^h SEPTEMBER 2019

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail, during pendency of the appeal filed by him. The applicant/accused is convicted of the offence punishable under Section 304 Part-I of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for 10 years apart from direction to pay fine of Rs.3,000/- and in default, to undergo further rigorous imprisonment for 1 year.

2 Heard the learned counsel appearing for the applicant/accused as well as the learned APP appearing for the State, who opposed the application for bail.

3 According to the prosecution case, deceased Radhesham Sawale was in a habit of consuming liquor and he used to spent all his earnings on liquor. First Informant Laxmi Sawale is his wife, whereas the applicant/accused is his son. The First Informant used to work as a maid servant for earning livelihood for the family.

4 The incident in question took place on 5th October 2015. On that day, deceased Radhesham Sawale had received his payment and he was consuming liquor throughout the day. In the evening when his wife/First Informant Laxmi Sawale was cooking food, the deceased Radhesham Sawale started abusing her and beating her. In the process of beating, deceased Radhesham Sawale took up a kitchen knife and started giving blows thereof

on his wife/First Informant Laxmi Sawale. She suffered injuries on her palm. Witnessing the assault on his mother, the applicant/accused intervened and tried to pacify his father. However, his father i.e. deceased Radhesham Sawale started assaulting the applicant/accused and in that scuffle, according to the prosecution case, the applicant/accused took that knife and gave blows thereof on stomach of his father i.e. deceased Radhesham Sawale.

5 Both eye witnesses to this incident namely Laxmi Sawale – wife and Rajani Sawale – daughter of deceased Radhesham Sawale turned hostile and have not supported the case of the prosecution.

6 In this view of the matter, I see no reason to refuse bail to the applicant/accused. Therefore, the order :

ORDER

i) The application is allowed.

- ii) Substantive sentence of imprisonment imposed on the applicant/accused is suspended and the applicant/accused 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 is disposed off.

(A. M. BADAR, J.)