

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1330 OF 2019
IN
CRIMINAL APPEAL NO. 1083 OF 2019

Bhimu @ Papalya Sidram Gadiwadar. ..Applicant.

v/s.

The State of Maharashtra & Anr. ..Respondents.

Mr. Sanjeev Kadam i/b. Ms. Vilasini Balasubramanian, advocate
for applicant.

Mr. S.R. Agarkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : AUGUST 19, 2019.

P. C. :

1 Heard the learned Counsel for the applicant and the
learned APP for State.

2 This is an application under section 389 of the Code of
Criminal Procedure, 1973 seeking suspension of substantive
sentence imposed upon the applicant by the DJ-3 & Additional
Sessions Judge, Sangli, thereby convicting the applicant for
offence punishable under section 307 and 323 of the Indian
Penal Code and sentenced to suffer R.I. for 5 years and to pay

Talwalkar

fine of Rs. 10,000/- I.d. to suffer R.I. for 6 months. The applicant is also convicted for the offence punishable under section 504 of the Indian Penal Code and sentenced to suffer S.I. for 3 months and to pay fine of Rs. 500/- I.d. to suffer S.I. for one month.

3 Perused the notes of evidence, more particularly, the evidence of the victim and the doctor i.e. P.W. 5, who had treated the victim from 27/7/2012 to 10/8/2012. It appears from the evidence on record that the victim complainant was having illicit intimacy with the present applicant, who was a married man. The said relationship was not accepted by the wife of the appellant. On the date of incident i.e. on 27/7/2012, the applicant had demanded about Rs. 20,000/- from the victim P.W. 4. She refused to oblige and hence, he assaulted her with a scythe. The injuries are in the nature of contused lacerated wounds. P.W. 5 doctor has described the said injuries as simple in nature. The victim was treated as indoor patient for 13 to 14 days. Hence, the injuries sustained by the victim do not fall under section 320 of the Indian Penal Code.

4 The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has

Talwalkar

not committed breach of any condition imposed upon him. It is in these circumstances that the applicant deserves extension of the same relief during the pendency of the appeal.

5 Hence, following order is passed :

ORDER

(I) The Application is allowed.

(ii) The substantive sentence imposed upon the applicant is hereby suspended. The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 30,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall not enter into Ankalgi, Taluka-Jath, Dist. Sangli during the pendency of the appeal.

(iv) The applicant shall mark his presence before the Sessions Court at Sangli once in 6 months on the date assigned by the learned Sessions Court, Sangli. Upon failure to attend any two consecutive dates, the learned Sessions Court, Sangli shall make report to the High Court and the prosecution is at liberty to seek cancellation of bail.

6 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]