

Anand

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

**CRIMINAL APPLICATION NO. 1761 OF 2018
IN
CRIMINAL APPEAL NO. 1236 OF 2018**

Santosh Ramdas Ghotekar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. V. L. Kolekar, Advocate, for the Applicant
Mrs. P. P. Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.03.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks suspension of his sentence and enlargement on bail pending the hearing and final disposal of his Appeal.

3. Learned counsel for the Applicant states that the allegation as against the Applicant is that the Applicant and his family members were demanding Rs. 1,00,000/- for purchasing a

generator and that pursuant to the said demand, an amount of Rs. 20,000/- was given by them. He submits that there is discrepancy in the evidence of the witnesses as to who had paid the amount of Rs. 20,000/-, as alleged. He submits that the allegations are not sufficient to bring home the charge under Sections 498A & 304B of the Indian Penal Code. He submits that the Applicant was on bail pending trial.

4. Learned APP opposes the Application.

5. Perused the papers. The Applicant and his family members i. e. his parents, brother and sister-in-law were all prosecuted for the offences punishable under Sections 304B, 498A, 323 and 504 r/w 34 of the Indian Penal Code. According to the prosecution, the deceased – Anita committed suicide by consuming poison in her matrimonial home on account of the ill-treatment meted out to her, on account of non-payment of Rs. 1,00,000/- for purchasing a generator. It is alleged that all the accused used to ill-treat her on account of non-fulfilment of the same. The prosecution has examined PW. 1 (father of deceased –

Anita), PW. 2 (uncle of deceased – Anita) in support of its case, to show demand as well as ill-treatment. According to PW. 1, he had paid an amount of Rs. 20,000/- out of Rs. 1,00,000/- to the accused, whereas according to the PW. 2, the said amount was paid by him. On the conclusion of the trial, the learned Sessions Judge acquitted the Applicant's parents, brother and sister-in-law and convicted the Applicant for the offences punishable under Sections 304B, 498A & 323 of the Indian Penal Code. The sentence imposed is seven years for the offence punishable under Section 304B of the Indian Penal Code. It is not in dispute that the Applicant was on bail pending trial. The sentence imposed is a short term sentence. The Appeal was admitted by this Court vide order dated 07.12.2018. The Appeal is not likely to be heard in the immediate near future.

6. Learned APP does not dispute the fact that the Applicant has not misused / abused liberty granted to him whilst on bail.

7. Considering the aforesaid, the Application is allowed.

The Applicant's sentence is suspended and he is enlarged on bail 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. 20,000/- with one or two local sureties in the like amount;

(ii) The Applicant shall report to the learned Sessions Judge, Nasik once in three months on the date assigned by the learned Sessions Judge. Upon failure to attend any two consecutive dates, the learned Sessions Judge, Nasik shall make report to the High Court and the prosecution would be at liberty to file an Application seeking cancellation of bail.

8. The Application is, accordingly, disposed of.

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

(REVATI MOHITE DERE, J.)