

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3650 OF 2022 OM
CRIMINAL APPEAL NO. 892 OF 2022

Sandeep s/o Manikrao Suraywanshi

Applicant

Versus

The State of Maharashtra

Respondent

Mrs. Poonam V. Bodke Patil, Advocate for the applicant.

Mr. S. P. Deshmukh, APP for the State.

CORAM : R. G. AVACHAT &

R. M. JOSHI, JJ.

DATE : 15th DECEMBER, 2022.

PER COURT :

1. Applicant has filed this application seeking suspension of substantive sentence passed against him for offence punishable under Section 302 of the Indian Penal Code in Sessions Case No. 57/2018.

2. Learned advocate for the applicant states that applicant is in jail since 2017 and, from the evidence of Special Executive Magistrate, it can be seen that the applicant extinguished the fire, which fact may bring the offence punishable under Section 302 of the Indian Penal Code to the offence of lesser degree. Learned APP

opposed the said submission by referring the evidence on record which, according to him, indicates involvement of the applicant in setting the deceased on fire.

3. At this stage, perusal of the testimony of Special Executive Magistrate indicates that the applicant had tried to extinguish the fire with the help of quilt and there is support to this evidence from the statement of deceased (Exhibit 24). It is also apparent from record that applicant himself had suffered 20% burns which are suggestive of it could have been caused while extinguishing fire. In view of the law laid down by the Hon'ble Apex Court, with attempt made by appellant to defuse flames, he may make out a case for lessor offence at the time of hearing of appeal.

4. In view of this, we are inclined to suspend the substantive sentence. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Pending the appeal, the substantive sentence of imprisonment imposed by the trial Court is suspended. The applicant be released on bail on

his executing of P.R. Bond in the sum of Rs.
15,000/- (Rs. Fifteen Thousand only) with one
surety in the like amount.

iii) Bail before the trial Court.

(R. M. JOSHI)
Judge

(R. G. AVACHAT)
Judge

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