

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.951 OF 2022
IN
CRIMINAL APPEAL NO.173 OF 2022

Dattatraya Ram Shivsharan
versus

Applicant

The State of Maharashtra

Respondent

Mr.Ritesh M.Thobde with Mr.Sagar S. Tambe, Advocate for applicant.
Mr.Ajay Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 30th March 2022

PC :

1. This is an application for suspension of sentence and grant of bail. The applicant is convicted for offences punishable under Sections 498A r/w 34 Indian Penal Code, 306 IPC, 304-B IPC and sentenced to suffer imprisonment of three years, eight years and eight years respectively.

2. Learned counsel for applicant submitted that the applicant was on anticipatory bail during trial. The facility of bail has not been misused. The marriage between the parties was solemnized on 29th October 2010. The alleged incident had occurred on 12th September 2016 and FIR was registered on 15th August 2017. The entire case of prosecution is false. There is no evidence to support offence under Sections 498A, 306 and 304B of IPC. There are serious discrepancies in the evidence of witnesses. The sentence of accused no.3 has been suspended by this Court.

3. Learned APP submitted that due to harassment the wife of

applicant had committed suicide. There is sufficient evidence to support charges against applicant.

4. The marriage of deceased was solemnized on 29th December 2010. It is alleged that she was harassed by accused. The accused no.1 is her husband. Accused no.2 is mother in law. One child was born out of wedlock. Victim committed suicide on 12th September 2016. The contention of applicants is that during preliminary investigation of AD No.67 of 2016, the Investigating Officer had given summary report that victim committed suicide as her husband was not doing any work and there was no suspicion on any person. The applicant is in custody from the date of judgment. He was granted anticipatory bail during trial. There is delay in registering the FIR. The alleged incident had occurred on 12th September 2016 and the FIR was registered on 15th August 2017 i.e. after about 11 months from the date of incident. There is no adverse report with regards to misuse of facility of bail granted to the applicant. Considering these circumstances, sentence of imprisonment can be suspended.

ORDER

- (i) Interim Application is allowed and disposed of;
- (ii) Sentence of imprisonment imposed vide judgment and order dated 8th February 2022 by Additional Sessions Judge, Solapur in Sessions Case No.221 of 2018 is suspended and applicant is directed to be released on bail on executing PR bond in the sum of Rs.20,000/- with one or more sureties in like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for ten weeks in lieu of sureties;
- (iv) The applicant shall attend Trial Court once in six months on first Saturday of the month till final disposal of the Criminal Appeal;
- (v) In the event there are two consecutive defaults in attending the Trial Court, the Trial Court shall submit report to this Court;

(vi) In the event of default committed by the applicant in attending the Trial Court, the prosecution will be at liberty to prefer application for cancellation of bail.

(PRAKASH D. NAIK, J.)

MST