

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO.1709 OF 2023****IN****CRIMINAL APPEAL NO. 572 OF 2023**

Popat Baban Jadhav

...Applicant/Appellant

Versus

State Of Maharashtra

...Respondent

....

Mr. Hitesh Mutha appointed Advocate for Applicant/Appellant.

Ms. P. N. Dabholkar, APP for the Respondent – State.

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CORAM : PRAKASH D.NAIK, J.**DATE : 9th JUNE, 2023.****P.C.:-**

1. This is an application for suspension of sentence and grant of bail during the pendency of criminal appeal challenging conviction.
2. The applicant is convicted for an offence punishable under Section 306 of Indian Penal Code and sentenced to suffer rigorous imprisonment for four years vide judgment and order dated 13th April 2022 passed by learned Ad-hoc District Judge-1, Sangli in Sessions Case No. 113 of 2013.
3. The case of the prosecution is that the deceased was suspecting that his wife was in illicit relationship with the applicant. He killed his wife and then committed suicide. The prosecution case is based on suicide note purportedly written by the deceased.

4. Learned Advocate for the applicant submits that the offence under Section 306 of IPC is not made out. The applicant was on bail during trial.
5. Learned APP submitted that, there is evidence of suicide note against the applicant. Conviction is supported by evidence.
6. The defence of the accused is that the necessary ingredient to constitute the offence under Section 306 of Indian Penal Code are lacking in the present case. There is no evidence to show that at any point of time the applicant has instigated or induced the deceased in any manner to commit suicide. The sentence is of four years. The applicant was on bail during the trial. It is not reported that he has misused the facility of bail.
7. considering the nature of evidence and the term of imprisonment imposed by the trial Court, the case for suspension of sentence and grant of bail is made out.

ORDER

- (i) Interim Application No.1709 of 2023 is allowed.
- (ii) The substantive sentence of imprisonment imposed vide judgment and order dated 13th April 2022 passed by learned Ad-hoc District Judge-1, Sangli in Sessions Case No.113 of 2013 is suspended and the applicant is directed to be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The Applicant is permitted to furnish cash bail security in the sum of Rs. 25,000/- for a period of 8 weeks in lieu of surety.

- (iv) The applicant shall report concerned police station once in six months on first Saturday of the month between 11.00 am to 01.00 p.m. till final disposal of the Appeal.
- (v) Interim Application stands disposed off.

(PRAKASH D. NAIK, J.)