



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3518 OF 2024
IN
CRIMINAL APPEAL NO. 757 OF 2024

Raju s/o Shamrao Katkar
Age: 42 years, Occu: Private Service,
R/o. Ganesh Nagar, Ranjangaon Shenunji,
Taluka Gangapur, District Aurangabad.

... Applicant
[Orig. Accused No.1]

Versus

The State of Maharashtra

... Respondent

.....
Mr. Vikram R. Dhorde, Advocate for the Applicant.
Mr. K. K. Naik, APP for Respondent-State.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 18.09.2024

Pronounced on : 20.09.2024

ORDER :

1. Prayers in this application are for suspension of sentence and grant of bail.

2. Learned counsel for the applicant submits that present applicant was tried and held guilty for offence under Sections 306 and 498-A of the Indian Penal Code [IPC]. He further submitted that except husband, i.e. present applicant, all other accused are acquitted, i.e. on the same set of evidence. It is further submitted that during

trial, applicant was on bail. That, marriage between deceased and applicant is more than 7 years old. There are allegations of cruelty for not bearing child. That, applicant has a good case on merits in appeal, however it would take long time for the appeal to be finally heard and decided and hence above relief is pressed into service.

3. While opposing the application, learned APP submitted that there is clear and clinching evidence on both the offences i.e. under Sections 498-A and 306 of IPC. That, on appreciation of evidence of in all 9 witnesses, guilt has been recorded. Apart from relatives, there are independent witnesses. There are allegations of beating for not bearing child. Injury marks are noticed which are *ante mortem* in nature. For above reasons, relief is opposed.

4. On going through the papers, it transpires that present applicant, i.e. husband of deceased Chhaya, and her in-laws i.e. accused nos. 2 to 6, were chargesheeted by MIDC Waluj Police for commission of offence under Sections 306 and 498-A r/w 34 of IPC. Learned trial Judge, after concluding trial and on appreciating the evidence of 9 witnesses, recorded a finding of guilt, but only against husband, and thereby acquitted in-laws, i.e. for offence under Sections 498-A and 306 of IPC. Said judgment is questioned by filing

appeal which is pending before this Court bearing Criminal Appeal No. 757 of 2024. Copies of depositions are also placed on record comprising of father-informant and neighbours. Suicide committed was by hanging.

5. Evidence of PW4 neighbour *prima facie* shows that the room in which suicide was committed was required to be break open. i.e. on 05.09.2017. On visiting evidence of informant father PW3 at Exhibit 46, allegations are levelled against all accused. On reading the testimony, in between the lines, there do not seem to be pointed allegations against specific accused. It is pointed out that learned trial court has believed evidence of neighbour PW5, but answers given by this witness in para 6 of her cross shows that this witness was not at home on the day of incident specifically referred to.

6. In the light of above discussion and as the appellant was on bail during trial, prayers so raised are required to be granted. Hence, I proceed to pass the following order :

ORDER

I. Criminal Application stands allowed.

- II. The substantive sentence imposed on the applicant Raju s/o Shamrao Katkar in Sessions Case No. 56 of 2018 by the Additional Sessions Judge, Vaijapur, District Aurangabad on 06.06.2024 stands suspended till the final hearing and disposal of Criminal Appeal No. 757 of 2024.
- III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with two solvent sureties in the like amount.
- IV. The applicant shall not commit any criminal activity.
- V. The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.
- VI. In case of two consecutive defaults on the part of the applicant to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.
- VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]