



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3688 OF 2023
IN CRIMINAL NO. APEAL NO. 904 OF 2023

Ashruba S/o Gulab Narsinghe

...Applicant

VERSUS

The State of Maharashtra

... Respondent

...

Mr. Umair Pasha A. Sayyed a/w Mr. K. N. Shermale, Advocate for
Applicant

Mr. S. D. Ghayal, Addl. P.P. for the Respondent - State

...

CORAM : R.G. AVACHAT &
NEERAJ P. DHOTE, JJ.

DATE : 21.02.2024

PER COURT :

1. This is an Application for suspension of substantive sentence imposed upon the Applicant by the learned Additional Sessions Judge, Ambajogai, Taluka Ambajogai District Beed, in Sessions Case No.115/2019 vide Judgment and Order dated 28/08/2023, thereby convicting him for the offences punishable under Sections 302 of the Indian Penal Code and sentencing him to suffer life imprisonment and to pay fine of Rs.10,000/-, in default, to suffer rigorous imprisonment for six (06) months.

2. Heard the learned Advocate for the Applicant and the learned Addl. P.P. for the Respondent – State.

3. The learned APP opposes the Application and submits that the Application may not be allowed.

4. The case of prosecution in brief is that the Applicant – Appellant killed his wife since she had eloped for nine days with some persons. After she returns, there were talks between the Applicant and his wife and the Applicant assaulted her by using brick which caused severe injuries to her. She succumbed to the injuries.

5. It is not disputed that all the witnesses except the Police witnesses have not supported the Prosecution. Prima facie, grave and sudden provocation during the talk between them cannot be ruled out as the deceased had eloped. The weapon used for assault is the brick. The Applicant and his wife were labourers. The Applicant is behind the bars since for four (04) years and seven (07) months.

6. In this view of the matter, we proceed to pass the following order:

ORDER

(i) The Criminal Application is allowed.

(ii) The substantive sentence imposed by the learned Additional Sessions Judge, Ambajogai, Taluka Ambajogai District Beed vide Judgment and Order dated 28/08/2023 on the Applicant / Appellant, namely, Ashruba S/o Gulab Narsinghe, is suspended during the pendency of the present Appeal.

(iii) The Applicant / Appellant be released on bail on furnishing P.R. Bond of Rs.15000/- [Rupees Fifteen Thousand Only] with one surety in the like amount.

(iv) Bail before the Trial Court.

7. Criminal Application stands disposed of accordingly.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

Sameer