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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**Interim Application No.3764 of 2024
in
Criminal Appeal No.1022 of 2024**

Santosh Sudhakar Shilimkar

Age: 32 years,

Occ: Agri and Sand Contractor,

R/o: Veerwadi, Tal. Bhore,

Dist.: Pune

Currently logged in Yerwade prison

... Applicant

Versus

The State of Maharashtra

Through Officer Incharge

Rajgad Police Station,

Pune Rural

Registered at: Rajgad

Police Station, Pune

... Respondent

Mr Satyavrat Joshi, along with Mr Ishan Paradkar and Mr Yash Fadtare, for the applicant.

Ms Manisha Tidke, APP, for the respondent/ State.

Coram: R.N. Laddha, J.

Date: 20 January 2025

P.C.:

The applicant faced trial in Sessions Case No.105 of 2013 for offences punishable under Sections 498A, 306, 504 and 506

read with 34 of the Indian Penal Code ('IPC'). By a judgment and order dated 29 August 2024, the trial Court convicted the applicant and sentenced him as follows: (i) rigorous imprisonment for three years and a fine of Rs.25,000/- (with default stipulations) for the offence punishable under Section 498A of the IPC, and (ii) rigorous imprisonment for ten years and a fine of Rs.75,000/- (with default stipulations) for the offence punishable under Section 306 of the IPC. These sentences were directed to run concurrently. Aggrieved, the applicant filed an appeal before this Court and, by the present application, seeks suspension of the sentence and release on bail.

2. Mr Satyavrat Joshi, the learned Counsel appearing on behalf of the applicant, highlights the alleged deficiencies in the prosecution's case. According to the learned Counsel, even if it is assumed that the deceased met a suicidal death, the prosecution failed to discharge the burden of proof of the said suicide being the result of cruelty allegedly meted out to the deceased. There is nothing on record to show that the applicant, in fact, by his conduct, desired to drive the deceased to commit suicide. There is no direct evidence regarding the alleged harassment. Further, the learned Counsel for the applicant raises a grievance that the trial Court misread the

prosecution evidence and was influenced by a number of assumptions which cannot be sustained on the material on record, and this has resulted in a miscarriage of justice. According to Mr Joshi, a statement which appears to have been made by the deceased to a particular witness and deposed to by the witnesses is not admissible in evidence for establishing the offence punishable under Section 498A of the IPC and has to be termed as hearsay evidence.

3. The learned counsel contends that in the absence of a suicide note and in light of the fact that the key allegations are inconsistent with the medical evidence, the impugned order fails to consider that the victim did not commit suicide but instead succumbed to an accident.

4. Mr Joshi further submits that the applicant was enlarged on bail during the pendency of the trial and has been in custody since 29 August 2024. The applicant has already deposited the fine amount and is ready to abide by all conditions this Court imposes if released on bail.

5. Ms Manisha Tidke, the learned Additional Public Prosecutor representing the respondent/ State, opposing the applicant's request, emphasises the gravity of the offence. The

learned APP contends that the evidence on record strongly supports the prosecution's case and does not warrant suspension of the sentence and the applicant's release on bail.

6. This Court has given anxious consideration to the rival contentions and perused the record.

7. In ***Bhagwan Rama Shinde Gosai v. State of Gujarat***, (1999) 4 SCC 421, the Hon'ble Supreme Court observed as follows:

“3. When a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence can be considered by the appellate court liberally unless there are exceptional circumstances. Of course, if there is any statutory restriction against suspension of sentence it is a different matter. Similarly, when the sentence is life imprisonment the consideration for suspension of sentence could be of a different approach. But if for any reason the sentence of a limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when a motion for expeditious hearing of the appeal is made in such cases. Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time. When the appellate court finds that due to practical reasons such appeals cannot be disposed of expeditiously the appellate court must bestow

special concern in the matter of suspending the sentence so as to make the appeal right, meaningful and effective. Of course, appellate courts can impose similar conditions when bail is granted.”

8. In the present case, the applicant is required to undergo the maximum rigorous imprisonment of ten years. During the pendency of the trial, the applicant was enlarged on bail. The appeal has been filed in 2024. There is no prospect of the appeal being heard in the near future. Notably, the marriage between the applicant and the deceased was solemnised on 14 March 2004, and the incident occurred on 16 July 2012, after more than 8 years. Considering the nature of the allegations, the arguments advanced across the Bar, and the evidence on record, a case is made out for a grant of suspension of sentence pending the appeal and release on bail. Hence, the following order:

ORDER

(i) The sentence imposed upon the applicant vide the judgment and order dated 29 August 2024 passed by the Additional Sessions Judge, Pune, in Sessions Case No.105 of 2013, is suspended during the pendency of the appeal, subject to the applicant executing a PR Bond of Rs.25,000/- and furnishing

one or more sureties in the like amount.

9. The interim application stands disposed of accordingly.

(R.N. Laddha, J.)

Corrected as per order dated 22 January 2025.