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

Interim Application No.4817 of 2024

in

Criminal Appeal No.1245 of 2024

Mahadeo Dattarao Ghuge

Age: 40 years, Occ: Labourer

(Presently lodged in

Nashik Central Jail)

R/at: resident of village Marsul,

Tal – Malegaon, Dist. - Washim

... Applicant

Versus

1. The State of Maharashtra

(through PI, Sinnar MIDC

Police Station, Sinnar, Nashik)

2. Dattatraya B Mundhe

Age: 74, R/at: village Savargaon

Mundhe, Post – Gandhari,

Tal. Lonar, Dist: Buldhana

... Respondents.

Mr Arpit Mutha, for the applicant.

Dr Ashwini Takalkar, APP, for respondent No.1/ State.

Mr Harshvardhan Suryawanshi, for respondent No.2 (through legal aid).

Coram: R.N.Laddha, J.

Date: 2 April 2025

P.C.:

The applicant faced trial in Sessions Case No.248 of 2016 before the Sessions Court at Nashik, for the offences punishable under Sections 498-A, 306 and 316 of the Indian Penal Code ('IPC'). By the judgment and order dated 23 October 2024, the applicant stood convicted and sentenced as follows: (i) rigorous imprisonment for one year and a fine of Rs.2,000/- (with default stipulations) for the offence punishable under Section 498-A of IPC, (ii) rigorous imprisonment for five years and a fine of Rs.2,000/- (with default stipulations) for the offence punishable under Section 306 of IPC, and (iii) rigorous imprisonment for two years and a fine of Rs.2,000/- (with default stipulations) for the offence punishable under Section 316 of IPC. These sentences were directed to run concurrently.

2. Aggrieved thereby, the applicant preferred an appeal before this Court and, by the present application, seeks suspension of sentence and his release on bail.

3. I have heard Mr Arpit Mutha, learned Counsel appearing on behalf of the applicant, Dr Ashwini Takalkar, learned Additional Public Prosecutor representing respondent No.1/ State, and Mr Harshvardhan Suryawanshi, learned Counsel appearing for respondent No.2.

4. The learned Counsel appearing for the applicant highlights the alleged shortcomings in the prosecution's case and contends that the testimonies of the prosecution witnesses lack credibility and fail to inspire confidence. He asserts that the witnesses not only fail to corroborate each other's statements but also contradict one another. PW-5 testifies that on 21 February 2016, AD No.9 of 2016 was registered, following which an inquest panchanama, spot panchanama, and post-mortem examination were conducted. The statements of all witnesses were recorded on the same day, yet no allegations of cruelty or ill-treatment arising from suspicions about the deceased's character were made. Instead, the informant and his relatives narrated an incident of accidental fall into the well. Moreover, the alleged crime was not immediately reported to the police, and there was a significant delay in its registration. Despite the fact that the applicant, the deceased, and their two children lived together, the investigating officer did not record the statements of the children. Additionally, PW-1 acknowledges that the applicant never made any demand from him, and during the deceased's lifetime, she did not lodge any complaint against the applicant. The allegations of cruelty and ill-treatment are vague and ambiguous, as none of the witnesses specify any particular date, time, or period. The learned Counsel argues that, since the applicant was granted bail during

trial, he should be afforded the same consideration during the appeal proceedings. The applicant is willing to comply with any conditions imposed by this Court and cooperate fully with the appeal process if released on bail.

5. Learned Additional Public Prosecutor representing respondent No.1/ State and learned Counsel appearing on behalf of respondent No.2/ informant, opposing the applicant's request, jointly refer to the seriousness of the charge on which the applicant has been convicted and argue that the evidence on record strongly supports the prosecution's case and does not warrant the applicant's release on bail.

6. This Court has given anxious consideration to the rival submissions canvassed across the Bar.

7. In ***Bhagwan Rama Shinde Gosai v. State of Gujarat***¹, 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

¹ (1999) 4 SCC 421

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. Upon perusing the records, it appears that the maximum period of imprisonment imposed upon the applicant is five years. The marriage of the applicant and the deceased was solemnised in 2007 and the alleged incident occurred in 2016. There appear to be contradictions in the evidence of the prosecution witnesses. The applicant was on bail during the trial. The appeal has been filed in 2024 and is unlikely to be heard in the near future due to the pendency of the older appeals. Considering the allegations, nature of the offence, and the sentence imposed, this Court deems it appropriate to suspend the applicant's sentence and release him on bail during the pendency of the appeal. Hence, the following order:

ORDER

(i) The sentence imposed upon the

applicant vide the judgment and order dated 23 October 2024 passed by the Sessions Court at Nashik, in Sessions Case No.248 of 2016, stands suspended during the pendency of the appeal.

(ii) The applicant shall be released on bail upon 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.)