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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5949 OF 2015
IN
CRIMINAL APEAL NO. 850 OF 2015

DEVIDAS S/O KUNDALIK KURHE
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. Rupesh A. Jaiswal h/f Mr. Nilesh S. Ghanekar
APP for Respondent/State : Mr. M. M. Nerlikar
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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 15th DECEMBER, 2015

P.C. :-

1. This is an application filed by accused No.2 in Sessions Case No. 52 of 2012, for suspension of the substantive sentence. The applicant/accused is prosecuted and convicted for the offence punishable under Section 302 r/w 34 of Indian Penal Code and sentenced to suffer rigorous imprisonment for life.

2. Learned counsel for the applicant submits that accused No. 1 and 3 are already released on bail and their substantive sentence is suspended vide order dated 05.10.2015 passed by this Court in Criminal Application No. 2480/2015. Even on the ground of parity, the applicant deserves to be released on bail. According to the learned counsel, the same set of evidence is against the present applicant.

3. Mr. Nerlikar, learned APP submits that the present applicant has thrown stone because of which, injury has been caused.

4. There were three accused and all three were convicted for the offence punishable under Section 302 of IPC. The other two accused have been released on bail. The evidence as against all three of them is common. Accused No.1 is stated to have hit with stick and accused No. 2 has thrown stone. Accused No.1 is already released on bail vide order dated 05.10.2015 in Criminal Application NO. 2480/2015 as referred above. The present applicant is entitled for parity.

5. Considering the above, the substantive sentence awarded to the applicant in Sessions Case No. 52 of 2012 is suspended. The applicant is released on bail on furnishing PR bond of Rs.20,000/- (Rupees Twenty Thousand only) with one surety of like amount.

6. Criminal Application is accordingly disposed of.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

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