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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.508 OF 2015
IN
CRIMINAL APPEAL NO.1073 OF 2013**

Sachin @ Pintu Pratap @ Sanjay
Patil,

... Applicant.

V/s.

The State of Maharashtra

.... Respondent

Mr. A. P. Mundargi, Senior Counsel I/by Mr. Umesh H. Pawar, for
the applicant.

Mr. A.S. Shitole, APP for the State.

**CORAM : SMT. V.K. THILRAMANI ACTING CJ &
DR. SHALINI PHANSALKAR-JOSHI, J.**

DATE : 17th NOVEMBER, 2015.

P.C. : [Per : Dr. Shalini Phansalkar-Joshi, J.]

1. This application is preferred by the original accused No.1 seeking suspension of substantive sentence of imprisonment and his enlargement on bail during pendency of this appeal.

2. It is urged that the case against the applicant stands only on account of his presence at the spot of incident. No incriminating role of assault on the deceased is attributed to him.

It is urged that the applicant is convicted mainly with the aid of Section 149 of the Indian Penal Code. There is no evidence relating to his active participation or involvement in the commission of the offence. No motive is also attributed to him. Therefore, he deserves to be released on bail as he has already undergone sufficient period in custody for more than 7 years.

3. We have heard Mr. A. P. Mundargi, learned Senior Counsel for the appellant and learned APP for the State.

4. At the outset itself we want to put it on record that this is a case of double murder and there are in all three eye witnesses. Out of them, one of the eye witnesses has though turned hostile, two other eye witnesses, namely P.W.10- Mandar Jadhav, the nephew of the deceased and P.W.11- Smt. Surekha, the wife of the deceased, have supported the case of prosecution. Their evidence is categorical to the effect that the applicant was holding sickle in his hand and was assaulting the deceased. Hence even accepting that, there is no recovery of the sickle at the instance of the applicant, at this stage, the evidence of these two eye witnesses, whose presence at the spot is natural, cannot be brushed aside. Though learned counsel for

applicant has tried to point out that there are some discrepancies in the evidence of these two witnesses, in our considered opinion at this stage, we cannot enter into appreciation of evidence threadbare. That can be done only at the stage of final hearing of the appeal. For the present, it is suffice to state that, considering the gravity of the assault and specific role of assault attributed to the applicant, applicant does not deserve to be released on bail. Hence order.

Order

Application stands dismissed.

[ACTING CHIEF JUSTICE.]

[DR. SHALINI PHANSALKAR-JOSHI, J.]

C E R T I F I C A T E

Certified to be true and correct copy of the original signed order.