

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

**CRIMINAL APPLCIATION NO.1365 OF 2015
IN
CRIMINAL APPEAL NO.1059 OF 2015**

Malhari Sidram Khade & Anr ..Applicants/Appellants

V/s.

The State of Maharashtra .. Respondent

Mr.Umesh R. Mankapure, for the applicant/appellant.

Mrs.Anamika Malhotra, APP for the Respondent-State.

CORAM : A. R. JOSHI, J.

DATE : 29th OCTOBER, 2015.

P.C.

1. Heard learned counsel for the applicants-original accused nos.1 and 2 on this application for bail/suspension of substantive sentence during pendency of appeal.

2. The applicants-accused nos.1 and 2 though earlier charged for the offence punishable under section 307 read with section 34 of Indian Penal Code, they were convicted for the offence under section 324 read with section 34 of I.P.C. and sentenced to suffer RI for two years and pay fine of Rs.2,000/- each. During the trial, the applicants were on bail. The injuries apparently caused to the prosecution witnesses were simple in nature as they are the CLWS and contusions. The use of the

sword and axe allegedly recovered at the instance of the present applicant is not considered as against the applicants by the trial Court for the reason that no blood was detected on said weapons allegedly recovered at their instance. As such trial Court brought down the offence under section 307 to the offence under section 324 of I.P.C. After conviction also the applicants were granted bail till filing of the appeal. Other co-accused are acquitted for the offences mainly punishable under section 307 of I.P.C.. Learned APP asked for time to ascertain whether State has preferred or wants to prefer an appeal challenging the acquittal of the co-accused and for the enhancement of the punishment against the present applicants. In the meantime in the opinion of this Court the applicants can be released on bail, hence order.

ORDER

- i) Bail application is allowed.
- ii) Applicants be released on same bail as granted by the trial Court with fresh bond to be executed before the trial Court.

(A. R. JOSHI, J)