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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.387 OF 2015
IN
CRIMINAL APPEAL NO.1009 OF 2014

Ramchandra @ Ram M Yadav ... Applicant

V/s.

The State of Maharashtra Respondent

Mr. Ramesh Dube Patil i/by M/s Jay and Co.for Applicant

Mrs. Sangeeta D. Shinde, A.P.P., for the Respondent-State.

CORAM : P.V.HARDAS &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

DATE : 15TH APRIL, 2015.

P.C. :

1. By this application, the applicant original accused No.3 seeks suspension of the substantive sentence of imprisonment and his enlargement on bail pending the decision of the appeal.
2. The applicant has been convicted for offence punishable under Section 302 r/w 34, 341 r/w 34, 323 r/w 34, 324 r/w 34, 504 r/w 34, 506 r/w 34 and sentence to various terms of imprisonments on the allegations that applicant alongwith other accused committed murder of deceased Niraj Singh on 16.04.2015. The prosecution principally relied on the

testimony of three eye witnesses viz. P.W. Nos 1, 2, and 3. The evidence of all the three eye witnesses clearly attribute the overt act to the applicant of assaulting eye witnesses with bamboo stick while the deceased was being assaulted by the other accused. The applicant had rushed to the scene of the incident on receiving telephonic call. In the light of the overwhelming evidence of three eye witnesses, we are not inclined to suspend the substantive sentence of imprisonment and release the applicant on bail though the applicant is stated to have been on bail during the trial.

3. The submissions which have been advanced before us by the learned counsel for the applicant particularly that in the light of the facts of the present case, the provisions of section 34 of IPC are not attracted, are the submissions which can be decided only at the time of final hearing of the appeal.

4. In the light of what is stated above, we dismiss the application. We, however, expedite the hearing of the appeal.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[P.V.HARDAS, J.]