

vks

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.465 OF 2015
IN
CRIMINAL APPEAL NO.560 OF 2012

Deepak Kate	... Applicant.
V/s.	
The State of Maharashtra	 Respondent

ALONGWITH
CRIMINAL APPEAL NO.640 OF 2013

The State of Maharashtra	 Appellant.
-VS-	
Sitaram Kate and anr	... Respondents.

Mr.Mohammed Umer Kazi, for the Applicant.

Mr. H. J. Dedhia, A.P.P., for the Respondent-State.

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

DATE : 5th MAY, 2015.

P.C. :

1. This application filed by the applicant /original accused No.1, seeks suspension of substantive sentence of imprisonment and his enlargement on bail pending decision of the appeal.
2. The applicant has been convicted for offence under Section 302, 307 of the Indian Penal Code, on the allegations that the applicant committed murder of the deceased Sachin on 4.9.2010 and also attempted to commit murder of P.W.1 Rukmini. The entire prosecution case against the applicant is based on the eye witness account of P.W.

Nos.1, 2, 3 and 4. The learned trial Judge has relied on the testimony of eye witnesses and has accordingly convicted and sentenced the applicant.

3. The learned counsel for the applicant has urged before us that the investigation had already commenced and subsequent to commencement of the investigation, F.I.R. was lodged. The learned counsel for the applicant has also urged certain other submissions which pertain to reappraisal of the evidence which cannot be entertained at this stage. Suffice it to state that eye witness account implicate applicant in the assault on deceased Sachin and Rukmini. Additionally, we find that the applicant was not on bail during the trial.

4. In the light of facts and circumstances, we are not inclined to suspend the substantive sentence of imprisonment and release the applicant on bail. However, since the applicant has undergone about five years imprisonment, we direct that this appeal alongwith companion Criminal Appeal No.640 of 2013 be added to the final hearing board at its appropriate place on the board from 08.06.2015.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[P.V.HARDAS, J.]