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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1431 OF 2015
IN
CRIMINAL APPEAL NO.829 OF 2015

Shivaji Baburao Bhendekar ... Applicant.
V/s.
The State of Maharashtra Respondent

Mrs. Nasreen S. K. Ayubi, for the Applicant.
Mr. H. J. Dedia, APP for the Respondent-State.

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

DATE : 23RD DECEMBER, 2015.

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

1. This application is preferred by original accused No.3, seeking suspension of his substantive sentence of imprisonment and enlargement on bail, during pendency of this appeal.

2. The applicant has been mainly convicted for the offence punishable under Section 302 read with Section 149 of the Indian Penal Code. As per prosecution case on 8.6.2012 at about 11.30 p.m., the applicant alongwith co-accused assaulted deceased Gangadhar and

Gajanan with sickle and other weapons in their hands. P.W.4 Balaji the brother of the deceased Gangadhar is an eye witness to the incident which was going on for about 5 to 10 minutes. He has specifically attributed the role of assault with sickle to the present applicant. The evidence of P.W.5 Dy. SP Deshmukh proved recovery of sickle and blood stained clothes at the instance of applicant.

3. In view of this incriminating evidence on record against applicant and the fact that during the trial also applicant was not on bail, we are not inclined to suspend his substantive sentence of imprisonment and release him on bail. Hence the application stands dismissed.

3. Fees be paid to appointed advocate as per rules.

[ACTING CHIEF JUSTICE.]

[DR. SHALINI PHANSALKAR-JOSHI, J.]

CERTIFICATE

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