

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

**CRIMINAL APPLICATION NO. 474 OF 2016
IN
CRIMINAL APPEAL NO. 759 OF 2015**

Prashant M. Chavan ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Sanskar Marathe for the Applicant.
Mr.H.j.Dedhia, APP for the Respondent/State.

**CORAM : SMT. V.K.TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : APRIL 18, 2016.**

JUDGMENT (PER SMT. ANUJA PRABHUDESSAI, J.):

1. By this application, the applicant who has been convicted in Sessions Case No.169 of 2014 for the offences under Section 302, 143, 147, 148 r/w. Section 149 of IPC has sought suspension of substantive sentence of imprisonment and his enlargement on bail pending the decision of appeal.

2. Heard learned Counsel for the applicant and the learned APP for the State. The applicant, the original accused no.5, has been held guilty of committing murder of Gangadhar Gadade and Gajanan Navghare.

3. The case of the prosecution is based mainly on the testimony of PW4 Balaji Rambhau Gadade. The evidence of PW4 vis-a-vis the FIR at Exh.86 indicates that on 8.6.2012 at about 9.30 p.m. deceased Gajanan had visited his house. His brother Gangadhar and said Gajanan had left the house and did not return till late night. Hence, he along with one Avinash Dhanave went in search of his brother. When they reached near Padmavati Zopadpatti at about 11 to 11.30 p.m. they saw the motorcycle of his brother lying near the electric pole. They also saw Gangadhar and Gajanan fallen on the road. The testimony of this witness indicates that he had seen the applicant herein and the other co-accused assaulting his brother by sickle and stones. His evidence indicates that a police van had arrived at the spot and shifted the injured to the hospital. This witness proceeded to the police station and lodged the FIR. The said FIR was lodged immediately after the incident and mentions the name of the

applicant as well as the role played by him in the incident. Thus, the evidence of this eye witness prima facie shows the complicity of the applicant in committing the gruesome murder of Gajanan and Gangadhar.

4. Considering the aforesaid facts and also considering the fact that the applicant was not on bail during the trial, we are not inclined to suspend the sentence and grant bail to the applicant. Hence the application is dismissed.

(ANUJA PRABHUDESSAI, J.)

(SMT. V.K.TAHILRAMANI, J.)