

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

**CRIMINAL APPLICATION NO. 489 OF 2016
IN
CRIMINAL APPEAL NO. 1155 OF 2015**

Ashok Pundalik Gavade

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Umesh R. Mankapure for the Applicant.

Mr.H.J.Dedia, APP for the Respondent/State.

**CORAM : SMT. V.K.TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : APRIL 20, 2016.**

ORDER (PER ANUJA PRABHUDESSAI, J.).

1. The applicant (Original accused no.1) who has been convicted and sentenced in Sessions Case No.11 of 2015 for offence under Section 302 r/w. 34 of Indian Penal Code has by this application sought suspension of substantive sentence of imprisonment and his enlargement on bail pending the decision of appeal.
2. Heard the learned Counsel for the applicant and the learned

APP for the State. We have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

3. The allegations against the applicant are that on 5.2.2014 at 10.45 a.m. he along with the co-accused Ramesh, with a common intention committed murder of Gurunath at hotel Top in Town, at Chandgad, District Kolhapur. The medical evidence reveals that said Gurunath had died as a result of head injuries. The evidence on record reveals that the incident in question was preceeded by a quarrel between the applicant and the deceased Gurunath and that the applicant herein had threatened to cause death of Gurunath.

4. The evidence on record, particularly the evidence of PW1 Vilas Gavade and PW3 Sudhir Rajapurkar prima facie reveals that said Gurunath had gone to the police station to lodge a report and that the applicant had followed him and inflicted a blow of Bamboo stick on the head of Gurunath. Thus, the testimony of these two witnesses prima facie reveals the complicity of the applicant in committing the said crime.

5. Considering the fact that the applicant is held guilty of

committing an offence which is of serious nature and also considering the fact that he was not on bail during the trial, we are no inclined to suspend the sentence by releasing the applicant on bail. Hence, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)

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