

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1136 OF 2016

IN

CRIMINAL APPEAL NO.619 OF 2016

UMESH GAJANAN KADAV

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.R.P.Hake Patil h/f. Mr.S.P.Kadam, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 27th SEPTEMBER 2016.

P.C. :

1 This is an application for suspension of substantive sentence imposed upon applicant and for grant of bail by applicant who is tried as accused no.1 vide Sessions Case No.195 of 2011 along with nine other accused persons. Heard learned counsel for both sides. Learned counsel for applicant has contended that applicant was charge-sheeted for the offence punishable under Sections 302, 147, 148, 149, 326, 323, 504 and 506 of IPC and on trial came to be convicted for the

offence punishable under Section 324 of IPC and is sentenced to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.1000/-, in default, to suffer simple imprisonment for 6 months.

2 It is submitted that except for evidence of recovery of one stick at the instance of applicant, there is no sufficient evidence establishing involvement of applicant in present crime. It is also pointed out that injury sustained by injured Tukaram Tamhane is simple in nature. It is, thus, contended that applicant since was on bail pending trial, application be allowed.

3 Having considering the facts as aforesaid, and since applicant is convicted for the offence punishable under Section 324 of IPC for the period of 3 years, which sentence also appears to be suspended by the learned Sessions Judge, during the period of appeal, application is liable to be allowed by suspending the substantive sentence imposed upon the applicant and granting him bail, as per order below :

- i) Applicant shall be released on bail on his executing PR.Bond in the sum of Rs.20,000/- with one surety in like amount.

- ii) While on bail, applicant shall mark his presence with Kulgaon Police Station, District Thane, once in six months, on the first day of such month, pending appeal.
- iii) Applicant shall provide proof of his residence to the Investigating Officer and change in address in future, if any, to the concerned police station.
- iv) Application is allowed in above terms.

(P. N. DESHMUKH, J.)