

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.576 OF 2017

IN

CRIMINAL REVISION APPLICATION NO.586 OF 2017

SHANKAR APPAYYA KHANDARE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Jayant Bardeskar, Advocate for the Applicant.

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

CORAM : A. M. BADAR, J.

DATE : 10th NOVEMBER 2017

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the revision petition filed by him.

2 Heard the learned advocate appearing for the applicant/accused as well as the learned APP. Prima facie, it is seen that there was scuffle between the two brothers and

countercases were filed by them against each other. The present applicant/accused, who is elder brother of the injured, is convicted of the offence punishable under Section 325 of the Indian Penal Code (IPC) and is sentenced to suffer rigorous imprisonment for 1 year, apart from directing him to pay fine of Rs.2,000/- and to undergo simple imprisonment for a period of fifteen days, in default of payment of fine. The learned advocate appearing for the applicant/accused has stated that the amount of fine has already been deposited.

3 It is seen from the evidence of PW3 Satappa Savant that the incident in question took place when the present applicant /accused had directed his younger brother to stop the electric motor as the well water was flooding his field. Then there was scuffle between the two brothers resulting in the incident.

4 As the incident happened because of scuffle between the two brothers, it will have to be seen whether the incident in

question took place because of an attempt on the part of the present applicant/accused to defend himself. It will have to be seen as to who was the aggressor in the incident in question. In this view of the matter, the following order :

ORDER

- I) The application is allowed.
- ii) Substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount, during pendency of the revision petition filed by him.

(A. M. BADAR, J.)