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

**CRIMINAL APPLICATION NO.643 OF 2018
IN
CRIMINAL APPEAL NO.472 OF 2018**

Shrishail Madolappa Birajdar ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Ritesh Thobde a/w Mr. Sagar Tambe, Advocate for the Applicant.

Mr. H. J. Dedhia, APP for Respondent - State.

**CORAM: B. R. GAVAI &
SARANG V. KOTWAL, JJ.**

DATE: 18th JULY, 2018

P.C.:-

1] This is an application for suspension of sentence and grant of bail during pendency of appeal.

2] Applicant, alongwith original accused No.1, has been convicted for the offence punishable under Section 302 read with section 34 of the Indian Penal Code. One of the deceased Sangita was wife of accused No.1 and the other deceased Shridevi was his mother-in-law. Prosecution case mainly rests on the evidence of P.W. 1 – Shruti and P.W. 2 – Sarika, who are sisters of deceased Sangita and daughters of deceased Shridevi. Perusal of their evidence would reveal that,

accused No.1 had come to their house and assaulted both the deceased as well as witnesses brutally. No role of any sort has been attributed to the present Applicant. However, it appears that on the basis of evidence with regard to some earlier quarrel in which Applicant is said to have been participated, the Applicant has been convicted for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. We are prima facie of the view that the view taken by the learned Trial Judge insofar as the present Applicant is concerned is not at all sustainable.

3] In that view of the matter, we are inclined to allow the application.

4] The sentence imposed on the Applicant by the Judgment and Order passed by the learned Trial Judge dated 8/3/2018 in Sessions Case No.259 of 2015 is suspended during pendency of appeal and the Applicant is directed to be released on bail on furnishing bail bonds in the sum of Rs 10,000/- with one or more sureties in the like amount.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)