

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

CRIMINAL APPLICATION NO. 330 OF 2018

IN

CRIMINAL REVISION APPLICATION NO. 349 OF 2018

Shankar Arjun Korake & Ors.

... Applicants

Vs.

The State of Maharashtra

... Respondent

...

Mr. Sairam S. Chaudhari for the applicant.

Mr. Y.M. Nakhwa, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 05th JULY, 2018.

P.C.

1. This is an application for suspension of sentence and grant of bail. The applicant No.1 and 2 are convicted for offence punishable under Section 325 of Indian Penal Code and they are sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs.5000/- each, in default of payment of fine to suffer simple imprisonment for three months . Applicants are further convicted for the offence punishable under Section 324 of Indian Penal code and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.5000/- and in default to suffer simple imprisonment for one month. The sentences are directed to run

concurrently. Thereafter, the applicants preferred Criminal Appeal No. 36 of 2012, which has been dismissed on 30th June, 2018.

2. Learned counsel for the applicant submits that the incident arises out of the dispute between two families who are related to each other on account of property dispute. It is submitted that applicant No. 1 is being attributed the role of allegedly using sickle. However, from the medical evidence it is apparent that there was no cut injury. It is submitted that the applicant No.2 and 3 are being attributed the role of using shovel and iron road and stick. It is submitted that the applicants were on bail during the trial as well as during the pendency of appeal. On instructions, learned counsel for the applicant further submitted that during the pendency of appeal, no case is registered against the applicants in relation to the dispute with the complainant or injured persons. It is submitted that panch was examined in relation to weapon has not supported to the prosecution case. It is submitted that the applicants are taken in custody on dismissal of the appeal on 30th June, 2018.

3. Learned APP submitted that the accused are convicted for committing crime by using dangerous weapon. The injuries sustained by the injured persons were proved during the trial.

There are concurrent findings of two courts for convicting the applicants.

4. Taking into consideration the submissions advanced by both the parties and the fact that the maximum sentence imposed by the trial Court is of two years and considering that the applicants were on bail during the appeal, the application for suspension of sentence can be allowed by imposing certain conditions. Hence, I pass the following order.

ORDER

- i) Criminal Application No. 330 of 2018 is allowed;
- ii) Pending hearing and final disposal of Criminal Revision Application No.349 of 2018, the sentence of imprisonment awarded by the Judicial Magistrate First Class, Pandharpur in Regular Criminal Case No. 85 of 2007 vide Judgment and Order dated 27th July, 2012, which was confirmed by the Sessions Court vide Judgment and Order dated 30th June, 2018, passed in Criminal Appeal No.36 of 2012, is suspended and the applicants are directed to be released on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each, with one or more sureties in the like amount;
- iii) Applicants are directed to report to the Pandharpur Police

Station at 11 a.m. on first Saturday of every month.

iv) Criminal Application No. 330 of 2018 stands disposed of.

(PRAKASH D. NAIK, J.)