

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1319 OF 2021 IN
CRIMINAL APPEAL NO.313 OF 2021**

Sambha Shyamrao Yede @
Milkhasingh Amriksingh Bhuller ... **APPLICANT**

VERSUS

The State of Maharashtra ... **RESPONDENT**

.....
Shri M.K. Bhosle, Advocate for applicant
Shri S.P. Sonpawale, A.P.P. for respondent – State
.....

**CORAM : R. G. AVACHAT, AND
R. M. JOSHI, JJ.**

DATED : 5th DECEMBER, 2022.

PER COURT :

Heard learned counsel for the applicant and
learned A.P.P. for the respondent – State.

2. Prima facie perusal of material shows that the statement of the sole eye witness, who is brother of the deceased, is recorded after four days of the incident. Admittedly, there are disputes between the parties over property. At this stage, the recovery at the instance of accused cannot be connected with the crime in question for want of blood stains thereon. Similarly, the injury caused to

the deceased also does not correspond to the weapon, as accepted by the Medical Officer. In view of the above, we are inclined to suspend the sentence pending the appeal. Hence the order :

ORDER

- (i) The Criminal Application is allowed.
- (ii) Pending the appeal, the further substantive sentence of imprisonment imposed by learned Additional Sessions Judge-1, Nanded in Sessions Case No.59/2018, by judgment and order dated 16/3/2021, to stand suspended and the applicant be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(R. M. JOSHI, J.)

(R. G. AVACHAT, J.)

fmp/-