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

**INTERIM APPLICATION NO. 2151 OF 2022  
IN  
CRIMINAL APPEAL NO. 639 OF 2022**

Sandip Sanjay Bendkule & Anr. ... Applicants/Appellants  
Versus  
The State of Maharashtra ... Respondent

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Mr. Sachin Deokar for the Applicants.  
Mr. A. R. Kapadnis, APP for the Respondent-State.

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**CORAM: NITIN W. SAMBRE AND  
R. N. LADDHA, JJ.**

**DATE : 12<sup>th</sup> JANUARY, 2023**

**P.C. :-**

. The genesis of the offence alleged against the appellants who are accused nos. 2 and 3, are out of old rivalry, the accused with the aid of his sword has murdered Sunil.

2. The Counsel for the applicants while trying to make out the case under Section 389 of the Code of Criminal Procedure, for suspension of sentence and grant of bail, would urge that the applicants are falsely implicated. He has drawn support from the evidence of PW1, PW6 and PW7, who are eye-witnesses, so as to claim that apart from accused nos. 2 and 3, rest of the accused were falsely implicated. He would further urge that the deceased Sunil died of single stab injury and that being so, both the accused cannot be held responsible.

3. Mr. Kapadnis, learned APP would oppose the prayer.
4. We have appreciated the submissions.
5. We have gone through the evidence of eye-witnesses PW1, PW6 and PW7, so also the evidence of PW5, Doctor who has conducted postmortem. Deceased Sunil suffered one stab injury and one surface wound, which is claimed to have been caused because of a minor surgery. No doubt, deceased died of a single stab injury, however, cumulative effect of the evidence of PW1, PW6 and PW7 who are eye-witnesses is considered, both the applicants with common intention armed with deadly weapon like sword have committed the offence. Accused Bhavrao has given first blow, which was evaded by deceased Sunil, however, Bhavrao has instigated co-accused Sandip in giving second blow of sword. From the aforesaid fact, the prima-facie common intention can be inferred against the applicants.
6. The application as such stands rejected.

**[R. N. LADDHA, J.]**

**[NITIN W. SAMBRE, J.]**