



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 CRIMINAL APPLICATION NO. 4223 OF 2025
IN APEAL/856/2025

1. Mahesh s/o Balasaheb Darekar,
Age : 27 years, Occ. : Agriculture,
R/o. Village Kashti, Tal. Shrigonda,
Dist. Ahmednagar.

2. Ramesh S/o Balasaheb Darekar,
Age : 34 years, Occ. : Agriculture,
R/o. Village Kashti, Tal. Shrigonda,
Dist. Ahmednagar.

... Applicants/
Appellants

Versus

The State of Maharashtra,
Copy to be served on the
Public Prosecutor, High Court of
Judicature of Bombay Bench
at Aurangabad (Through Shrigonda
Police Station, Dist. Ahmednagar).

... Respondent

...
Mr. N. S. Ghanekar h/f. Mr. Dhanraj S. Ingole, Advocate for
Applicants/Appellants;

Ms. M. L. Sangit, APP for Respondent-State.

Mr. Sudheer R. Zambare, Advocate for Intervener.

...

CORAM : NEERAJ P DHOTE, J.

DATE : 9th DECEMBER, 2025

PC.:-

1. This is an application for suspension of sentence imposed by
the learned Sessions Judge, Shrigonda in Sessions Case No.47 of 2019
convicting the Applicants/Appellants for the offences under Sections
307, 504, 506 r/w 34 of the Indian penal Code (IPC) and sentenced

them to suffer rigorous imprisonment for ten (10) years and to pay fine of Rs.5,000/- each with default sentence of six (6) months.

2. The case of prosecution in brief is that on 17.08.2016, the Applicants/Appellants were destroying the common *bandh* between their agricultural field and that of the Informant. The Informant and his mother, who is an injured witness, objected to the said Act of the Applicants/Appellants. Applicant No.1-Mahesh Darekar drove the tractor in the direction of the First Informant. However, he escaped without an injury. Thereafter, the tractor was taken in a reverse direction in a high speed, which hit the mother of the Informant and she suffered the injuries in her ribs. The Informant's mother was taken to the hospital for treatment and later referred to another hospital, where she was hospitalised for 15 days. The incident was reported to the police and crime bearing No.I-380 of 2016 came to be registered on 18.08.2016 at Shrigonda Police Station, Taluka Shrigonda, District Ahmednagar.

3. The investigation was done and the Applicants/Appellants came to be charge-sheeted. The prosecution examined in all 7 witnesses to prove the Charge against the Applicants/Appellants. After the Trial, learned Trial Court convicted and sentenced the Applicants/Appellants as stated above.

4. Heard learned Advocate for the Applicants/Appellants, learned APP for the Respondent-State and learned Advocate for the First Informant. With their assistance, I have gone through the relevant evidence on record.

5. Learned Advocate for the Applicants/Appellants submits that, they have been falsely implicated due to the civil dispute in respect of the partition of properties. No MLC was sent by the medical officer where the injured was firstly taken for treatment. Witness No.5 was examined as the eye witness and he did not witness the entire incident. The medical evidence do not corroborate the testimony of the prosecution witnesses. There is delay of one day in lodging the report. The investigating officer was not examined which caused prejudiced to the Applicants/Appellants. The Applicants/Appellants were on bail throughout the trial. The Applicants/Appellants are having good case on merits and, therefore, the sentence be suspended and they be released on bail.

6. Learned APP for the Respondent-State submits that, PW1 and PW2 are the eye witnesses to the alleged incident. They deposed of the exact incident. Though the intention was to kill the Informant, the tractor hit the injured witness which shows the intention. The spot panchanama corroborate the testimony of eye witnesses. The injuries

on the injured witness are proved through the medical evidence and the injuries were in the nature of fractures to the ribs. There is no inordinate delay in reporting the incident to the police. The testimony of witnesses remained unshaken in the cross-examination and the testimonies are consistent with their previous statements. The learned Trial Court has rightly appreciated the evidence on record and recorded the conviction and sentence and, therefore, the Application be rejected.

7. Learned Advocate for the Informant submits that the incident is narrated by the eye witnesses, out of which, one was the injured eye witness. There was civil dispute between the parties. The testimony of the eye witnesses show the intention and knowledge. The spot panchanama and medical evidence corroborate the testimony of the eye witnesses. The Trial Court has rightly appreciated the evidence on record and application be rejected. He relied on the order of this Court in *Navnath Sadashiv Taras & Ors. Vs. State of Maharashtra*, (2017 (1) ABR (Cri) 658), *Dyandev Trimbak Ukirde Vs. State of Maharashtra*, (AIR OnLine 2020 Bom 884) and *Talesh Jairam Jadhav & Ors. Vs. State of Maharashtra*, (AIR OnLine 2019 Bom 3080) in support of his submissions.

8. In *Navnath (supra)*, one of the Accused assaulted by the stick in the head, while another Accused person assaulted with the weapons

on the left hand and neck and the injured was kicked on his private parts and there were four injuries the injured therein. In *Navnath (supra)*, the Accused therein tried to strangle the Victim. In *Talesh (supra)*, the injured was assaulted with knife blows and there were four stab injuries.

9. In the case at hand, PW1 and PW2 are the eye witnesses to the alleged incident. Their evidence clearly show that there was dispute pending in the Court at Shrigonda between them. The dispute in respect of the partition. This indicates that the parties were litigating against each other. Though, PW5 is examined as eye witness to the incident, the evidence of PW2 injured show that, he reached on the spot on hearing her shouts/cry. Further, the evidence of PW5 show that, he was the chance witness and co-incidentally cousin brother of the Informant i.e. PW1. The evidence of PW1 show that while Applicant No.1 drove the tractor in the high speed, the backside of the tractor dashed against the chest of PW2 and she fell down. According to PW2, Applicant No.1 brought the tractor in the reverse direction towards her and the tractor hit her. There is a slightly inconsistency in the testimony of these two witnesses in respect of dash by the tractor to the injured witness. PW7-Doctor to whom PW2 was taken for treatment, deposed that, he had not recorded any history of assault and the patient had stated history of chest pain. Admittedly, the

evidence of PW6-Doctor, who is another Doctor, who examined the injured for the fractures in the ribs nowhere show that, the MLC was issued to the police. There is nothing to show that any of the Doctors had issued the MLC to the police in respect of the injury caused to the injured. The evidence of PW6 show that he did not notice any external injury on the person of PW2. It has come in his evidence that, the fracture injury was possible by fall and if the fracture is caused by direct violence, there is always presence of external wound at the site of impact.

10. Considering the above evidence on record, *prima-facie*, Applicants/Appellants are having good case on merits. Both the Applicants/Appellants were on bail during trial. The facts of the cases relied upon by the learned Advocate for Respondent No.2-Victim are completely different from the facts of this case. The Appeal is not likely to be heard finally in near future. The substantive sentence is in the nature of term sentence. Thus, I am inclined to pass the following order:-

ORDER

- (i) The Application is allowed.
- (ii) The substantive Sentence imposed by the learned Sessions Judge, Shrigonda in Sessions Case No.47 of

2019 vide the Judgment and order dated 07.11.2025 on the Applicants/Appellants, by name, (1) Mahesh Balasaheb Darekar and (2) Ramesh S/o Balasaheb Darekar, for the offence punishable under Sections 307, 504, 506 r/w 34 of IPC, is suspended during pendency of the Appeal.

(iii) Applicants/Appellants - (1) Mahesh Balasaheb Darekar and (2) Ramesh S/o Balasaheb Darekar be released on bail on furnishing P. R. Bond of Rs.15,000/- each (Rupees Fifteen Thousand Only) with one surety in the like amount.

(iv) The Applicants – Appellants shall co-operate in early hearing of the Appeal.

(v) Bail before the Trial Court.

(vi) Application stands disposed off accordingly.

(NEERAJ P. DHOTE, J.)