

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

Criminal Application No.1389 of 2015

Sachin s/o Uttamrao Shinde
And Others.

.. Applicant.

Versus

The State of Maharashtra.

.. Respondent.

Shri. S.T. Veer, Advocate, for applicants.

Smt. R.K. Ladda, Additional Public Prosecutor, for
respondent.

Shri. R.B. Narwade Patil, Advocate, to assist the APP.

CORAM: T.V. NALAWADE, J.

DATE : 8th JUNE 2015

ORDER:

1) The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation.

2) The previous application bearing Criminal Application No.3504/2014 was rejected by this Court on merits by order dated 1-9-2014. In view of this circumstance, it was necessary for the applicants to show

that there has been change in circumstance. Learned counsel for the applicants submitted that the case has not made any progress and the applicants are behind the bars for more than two years and this circumstance is sufficient for granting bail.

3) While rejecting the previous application this Court has considered the relevant material which is at paragraphs 4 and 5. Number of injuries which were found on the dead body of Pandurang are mentioned in the order. Injured witness Rameshwar also sustained stab injury and one more witness also sustained simple injury. There are statements of eye witnesses. This Court has considered other material including spot panchanama. This Court has observed that at this stage it is not possible to accept the contention that the applicants were not the aggressors and the deceased was the aggressor. The incident took place in the field of the deceased. This Court held that there is possibility of tampering of the prosecution witnesses in view of nature of weapons used by the applicants and this Court refused bail.

4) To ascertain as to whether there was any fault of the applicants for delaying the trial, this Court has called report of the Presiding Officer of the trial Court. The report shows that present applicants have filed application Exhibit 49 for withdrawal of the amount from the bank account. Hearing of this application has not taken place and it was not decided till 7-4-2015 as per the report. The roznama also shows that no interest was shown in starting of recording of evidence even when the list of witnesses was filed by the State before 4-7-2015 and witness summons were issued. The submissions made show that only one witness is examined as per instructions received by the learned counsel for the applicants. The report of the Presiding Officer shows that the applicants are not cooperating in the trial. Even the application at Exhibit 49 is still pending.

5) Learned counsel for the applicants has placed reliance on following reported cases :--

(1) **1985 Cri.L.J. 1487 (Juria v. State);**

(2) **1988 Cri.L.J. 2131 (Rajendra Singh v. State);**

- (3) **1987 Cri.L.J. 1256 (Ramroopsingh v. State of M.P.);**
- (4) **1996 Cri.L.J. 3176 (Ruldu Singh v. State);**
- (5) **(1996) 3 SCC 422 (R.D. Upadhyay v. State of A.P.);**
- (6) **AIR 2002 SC 2338 (Ram Choubey v State of Bihar).**

6) This Court has gone through the facts of the reported cases and the observations made by the Apex Court in Upadhye's case (cited supra). In the present case charge is framed under sections 302, 307 etc. of the Indian Penal Code. There are specific allegations against the applicants. Other circumstance like presence of injuries on the persons of accused Nos.3 and 4 is also discussed by this Court and this circumstance shows that the applicants were present on the spot at the relevant time.

7) In view of these circumstances this Court holds that there has been no change in circumstances. The application is rejected.

Sd/-
(T.V. NALAWADE, J.)

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