

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

Criminal Application No. 1173 of 2015

Raghunath s/o Nagorao Jadhav. .. **Applicant.**

Versus

The State of Maharashtra. .. **Respondent.**

Shri. N.S. Ghanekar, Advocate, for applicant.

Shri. S.B. Pulkundwar, Additional Public Prosecutor, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 20th APRIL 2015

ORDER:

1) The application is filed for bail. Both the sides are heard.

2) The previous application of the present applicant bearing Criminal Application No.2671/2013 was withdrawn on 8-8-2013 when this Court, after hearing the learned counsel exhaustively and after perusing the papers of investigation, had expressed that the Court is not inclined to grant bail. Thus disposal of the earlier application needs to be treated as rejection on merits.

3) This Court has discussed the material collected by the investigating agency as against the present applicant along with other accused in the previous application. The incident in question took place on 24-12-2012. The incident was witnessed by the complainant and also other eye witnesses. At about 5.00 p.m. on that date the complainant, her mother-in-law and daughter were working in their agriculture land. At that time accused persons came to the field on three motor cycles and at that time present applicant was also there on one motor cycle. There were quarrels between the accused and the deceased on the ground of cultivation of land by the deceased. Allegations are made that, in the presence of the eye witnesses assault was made by the present applicant and others by using weapon like iron bar, tommy, handle of sped, stick etc. They left the place only when the husband of the complainant was dead. Nobody tried to intervene as present applicant and others gave threat that they would finish them who would try to intervene in the incident.

4) Post mortem report shows that surface wounds were on the body and there were as many as nine injuries. The deceased had fracture wounds on upper and lower limbs. Severe beating was given to the deceased. The death took place due to haemorrhagic shock due to multiple injuries. This record shows that there is strong *prima facie* case for offence under section 302, 34 of the Indian Penal Code. Charge sheet is also filed for offences punishable under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act as the deceased was from scheduled caste.

5) Learned counsel for the applicant submitted that after passing of order by this Court in Criminal Application No. 2671 of 2013 bail is granted to other accused by other Hon'ble Judges of this Court. He has produced copies of the orders of Criminal Application Nos.1473/2014 and 3262/2014. It appears that the order of this Court was not brought to the notice of the other Hon'ble Judges who granted bail to other two accused.

6) In any case when the previous application was disposed of on merit, it was necessary for the applicant to show change in circumstances. Bail granted to other accused by the other Hon'ble Judges cannot be a change in circumstance in view of aforesaid circumstance. This Court holds that it is not a fit case to grant the bail. The application is rejected.

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

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