

FARAD CONTINUATION SHEET NO.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1428 OF 2015
[Sunil Tejrao Shejwal and others Vs The State of Maharashtra]

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or
directions and
Registrar's orders

Court's or Judge's orders

Shri P.S.Paranjape, advocate for applicants
Shri U.H.Bhogale, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.

DATED : 30th March, 2015

PER COURT :-

1] By the present application, the applicants are seeking their enlargement on bail, in connection with Crime No. 111 of 2014, registered with Police Station Fulambri, District Aurangabad, for the offences punishable under Sections 302, 201, 143, 147, 148, 149, 323, 504 of the Indian Penal Code.

2] I have heard Shri P.S.Paranjape, learned counsel for the applicants and Shri U.H.Bhogale, learned Additional Public Prosecutor for the respondent/State in extenso.

3] The investigating agency has completed its investigation and charge sheet is already filed in the court of law.

4] The incident has occurred at Gat No. 65 of village Jategaon. The 7/12 extract of the said Gat number is available in the charge sheet which clearly shows that the present applicants were in cultivating possession of the said

agricultural land. According to the prosecution case, on the day of the incident i.e. on 10.7.2014 deceased Kondiram and others were in the said agricultural land for sowing operations and that time present applicants along with others have made assault, due to which Kondiram has lost his life. The weapons used in the present case are sticks and iron rod.

5] Looking to the fact that the applicants were shown in physical cultivating possession of Gat No.65 which is the place of occurrence, a submission is made by the learned counsel for the applicants that the present applicants resisted the invasion on their agricultural property by the deceased and others.

6] From the material collected, during the course of the investigation, it appears that at least, prima facie, the incident has occurred on the spur of moment and ultimately at the most it will be the offence punishable under Section 304 Part I or Part II of the Indian Penal Code. Of course, that will be decided at the time of the trial, however, looking to the fact that the applicants are not having any criminal antecedent and further they were in firm cultivating possession of the agricultural land, prima facie it could be deduced from the charge sheet that the incident has occurred on the spur of moment. The custodial presence of the applicants in jail will not subserve any purpose, since the charge sheet is already filed. Hence, I pass the following order.

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicants be released on bail, in

connection with Crime No. 111 of 2014, registered with Police Station Fulambri, District Aurangabad, for the offences punishable under Sections 302, 201, 143, 147, 148, 149, 323, 504 of the Indian Penal Code, on they each executing P.R. bond of Rs.5,000/- with one solvent surety in the like amount by each of them.

(iii) The applicants shall not tamper with the prosecution case.

(iv) The applicants shall attend Fulambri police station once in a fortnight, preferably on every Saturday between 10.00 a.m. to 11.00 a.m., till the charge is framed by the learned trial court.

(v) It is made clear that the observations made in this order are prima facie in nature and are restricted to this application only and the learned Judge of the court below shall not get influenced himself by the said observations while deciding the matter on merits.

(vi) Application is disposed of.

(V.M.DESHPANDE, J.)

dbm/crap1428.15