

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram,	Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 1831 OF 2015

DNYANESHWAR S/O VINAYAKRAO JAWALE & ANR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. V. D. Salunke, Advocate h/f
Mr. Mohekar Ganesh V.
APP for Respondent: Mr. S. A. Ambad.

CORAM: T. V. NALAWADE, J.
DATED: 15th JUNE, 2015.

PER COURT:

1. The application is filed for bail. Both the sides are heard.
2. The previous application of the applicant bearing No.4813 of 2013 was withdrawn by the applicant before this Court on 7th October, 2013 when this Court expressed that this Court was not inclined to grant relief on merits. The learned counsel for the Applicant today argued that the applicants are behind bars for more than 2 years and the case is not making progress. He

submitted that the applicant No.1 is working as Lecturer and the applicant No.2 is doing B.Tech. Engineering Course and as two witnesses are examined by the prosecution have not given evidence against them they are entitled to get bail. The record of evidence of complainant Madhukar and other witnesses Kalyan is produced in that regard.

3. On the other hand, learned A.P.P. submitted that there are three more eye witnesses who have given statements before police against the applicants and in case of their release on bail they may tamper with the prosecution witnesses and as already 2 witnesses, who are examined, avoided to give evidence against the applicants.

4. This Court has gone through the record of police statements of the witnesses like Vithal (father of the deceased), Gopal (brother of the deceased) and one Keshav. These three witnesses have stated before police that in their presence present two applicants and other accused together attacked deceased, Angad and they had committed murder in their presence at about 08.00 p.m. This Court has gone through the P.M. report and it

shows that incised and stab wounds were found on the dead body. The intestine had come out due to the stab wounds and death took place on the spot. One more witness was injured. Injury certificate of injured witness is on record. The learned counsel for the Applicants submitted that no specific role is attributed to the present applicants by Vithal, Gopal and Keshav before police. He submitted that C.A. Report of the clothes of the Applicants shows no blood was detected and so they are entitled to get bail.

5. Only due to the absence of blood stains on the clothes inference cannot be drawn at-least at this stage by this Court that the two applicants were not present on the spot. Many persons participated in the incident and dangerous weapons were used by them. Charge is framed for offence punishable under section 302 read with 149 of I.P.C. and in view of this circumstance, at this stage the material on unlawful assembly and common object needs to be seen. There was motive and there was common object. The deceased was insisting for giving expenses regarding treatment in respect of the injuries sustained by the mother in motor accident which

was caused by Shivaji, one of the accused. The accused were reluctant to give the amount when the deceased Angad insisted for the same. His murder was committed in the village in the presence of many witnesses. There is clear possibility of tampering of the prosecution witnesses. This Court is avoiding to discuss and appreciate the evidence given by two witnesses examined by prosecution.

6. This Court has called report from the present Presiding Officer and it shows that the accused persons are prolonging the matter and for petty reasons they are saying that they want to approach High Court. Learned counsel for the Applicant submitted that such allegations are as against accused Nos.1 to 5 and not against Nos.6 and 7, the present applicants. All the accused are playing the same tactics. This Court holds that it is not desirable to grant bail, at this stage.

7. In the result, the application is rejected.

[T. V. NALAWADE, J.]

Dt.15/06/2015
ans/1831