

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. 2875 OF 2015

PUNDLIK SUBHA PATIL & ORS
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Sawant Amol S. / Mr. V. P. Raje.
APP for Respondent: Mr. U. H. Bhogle.

CORAM: T. V. NALAWADE, J.
DATED: 22nd JUNE, 2015.

PER COURT:

1. The application is filed for bail. Both the sides are heard.
2. Previous application of the applicant bearing No.343 of 2015 was withdrawn by the Applicants when this Court had expressed that the Court was not inclined to grant relief on merits. In view of this circumstance, the applicants were expected to show that there has been change in the circumstances. Learned counsel for the Applicants submitted that this Court had disposed of

the previous application on 16th February, 2015 and the charge sheet came to be filed on 26th February, 2015 and there has been change in the circumstances. It needs to be made clear that only the circumstance of filing of the charge sheet cannot be considered as change in circumstances and it is necessary for the applicants to show that due to collection of some material which is filed with the charge sheet the case needs to be appreciated in different manner.

3. The crime was registered on the basis of report given by widow of the deceased. The incident in question took place on 4th August, 2014 i.e. on the night between 3rd August, 2014 and 4th August, 2014 in the house of the applicants. Deceased Dnyaneshwar was son of applicant No.1 and he was living with Applicant Nos.1 to 3. At the relevant time the informant was in the house of her parents in other village but her son Manoj aged about 12 years was present in the house where the incident in question took place.

4. Applicant No.2 Prakash informed to police on 4th August, 2014 that the deceased was heavily drunk on the night between 3rd August, 2014 and 4th August, 2014,

he caused damage to the household articles and when nobody was paying attention, he jumped from Dhaba of the house (it is a one storied building). A.D. Was registered on the basis of this report of Applicant No.2.

5. The F.I.R. came to be given on 28th November, 2014. In the F.I.R. the widow has contended that her son Manoj was appearing frightened and he was behaving in different way and ultimately he disclosed that the incident had taken place in his presence and threats were given to him by the present applicants not to disclose the incident to anybody and he was asked to inform that the deceased had a fall from Dhaba of the house. He informed that in the incident dated 3rd August, 2014 which took place after 08.00 p.m. the applicants had become angry as the deceased was asking for partition and to give his separate share in his possession. Manoj disclosed that during quarrel Premchand gave blows by using iron bar and Prakash gave beating by using stick. He also disclosed that the father was instigating to give beating to the deceased. They left only when Dnyaneshwar became unconscious. Thus, when the incident took place on 3rd of August,

2014 the A.D. report was given by Applicant No.2 on 4th August, 2014. There is police statement of Manoj to the aforesaid effect.

6. This Court has gone through the P.M. report. The P.M. report shows that there are multiple abrasions over forehead and cheek (both sides) and over nose. There was sharp cutting wound over right elbow and there was compound fracture over right wrist and abrasion over neck and anteriorly Bluish black patch over abrasion over left arm. There was fracture over elbow. There was compound fracture over right leg. There was sharp cutting wound over left foot. There was sharp cutting wound and Bluish black patches over right thigh. Thus, injuries were present all over the body and all sides of the body. The death took place due to subdural haematoma due to head injury and multiple compound fracture injuries. It is not possible that such injuries were sustained due to simple fall from Dhaba of the house when it is a one storied building. This can be seen from the spot Panchanama.

7. The aforesaid circumstances show that a false record was tried to be created by the applicants and

false A.D. report was given to police. Thus, attempt was made to conceal the homicide of Dnyaneshwar.

8. The learned counsel for the Applicants submits that the F.I.R. came to be given against them only when Pundlik gave report against the first informant on 20th November, 2014. It appears that after the murder of Dnaneshwar some portion of the land was shown to be sold to the first informant but after that dispute started and said sale deed was challenged by the present applicants. After starting of the dispute, report was also given against the first informant that she had used pressure and she had assaulted the complainant Pundlik for getting the sale deed executed in her favour. This circumstance also can be used against the present applicants as it can show that they tried to cover up the things.

9. Aforesaid material is sufficient to make out the case of murder and also of common intention. The aforesaid conduct of the applicants also show that they can go to any extent. The eye witness Manoj is their close relative and he is aged about 12 years. There will be danger to his life also if the applicants are released on bail. This

Court holds that, this is not a fit case to grant relief. There has been no change in the circumstances. The application is dismissed. These observations are for the purpose of present proceeding only.

10. Learned counsel for the Applicant in Criminal Application No.3219 of 2015 is allowed to assist learned A.P.P. Thus, the criminal application No.3219 of 2015 is disposed of.

[T. V. NALAWADE, J.]

Dt.22/06/2015
ans/2875