

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3288 OF 2015

Arjun S/o Keshavrao Dhumal,
Age : 32 years, Occu.: Agri.,
R/o. Bangali Pimpala, Tq. Georai,
Dist. Beed

.. Applicant
(Orig. Accused No.4)

Vs.

The State of Maharashtra
Through the Police Inspector,
Chakallamba Police Station,
Tq. Georai, Dist. Beed

.. Respondent

AND

CRIMINAL APPLICATION NO. 3760 OF 2015 IN
CRIMINAL APPLICATION NO. 3288 OF 2015
(Dattatray S/o Walmik Bawajkar Vs. The State)

Mr. Angad L. Kanade, Advocate for applicant (3288/2015)
Mrs. B.B. Gunjal, A.P.P. for respondent-State
Mr. S.D. Hiwrekar, Advocate for applicant (3760/2015)

CORAM : M.T. JOSHI, J.

RESERVED ON : 15/07/2015
PROUOUNCED ON : 20/07/2015

ORAL ORDER :

Heard both sides.

2. Perused the written notes of arguments filed on behalf of the applicant in Criminal Application No. 3288 of 2015.

3. Applicant – Arjun S/o Keshavrao Dhumal, who is arrested by Chakallamba Police Station, Tq. Georai, Dist. Beed in crime no. 32 of 2014 for the offences punishable under section 324, 323, 143, 147, 149, 302, 504, 506 of the Indian Penal Code and under section 4/25 of the Indian Arms Act, is praying for his release on bail.

4. His earlier application for similar relief bearing Criminal Application no.6536 of 2014, after hearing, was allowed to be withdrawn by this Court on 22/12/2014, with liberty to file similar application in case the trial is not concluded within a period of six months.

5. Deceased Walmik was allegedly assaulted on 3/5/2014 by four persons including the present applicant – Arjun, due to which he died on the next day in the morning. The post-mortem examination note would show that there were five injuries on his person including two chop injuries. The complaint of the injured son of the deceased would show that four persons including the present applicant – Arjun were armed with stick and

steel bar and they hit the deceased with the same. The wife of the deceased also suffered injuries.

6. Learned counsel for the applicant submits that there is variance between the complaint filed by the son of the deceased and the statement of the wife of the deceased, who is also claimed to be an injured in the said incident. He further submitted that the statements made by the witnesses are false as each of the witnesses i.e. the family members gave different versions. It was further submitted that Chaturabai – wife of the deceased has allegedly stated that she had hidden herself immediately after the assault and, therefore, she could not be an eye witness. Further, since the incident has allegedly taken place at 9:30 pm. at a farm-house away from the village, there would be no facility of electricity at the time of the incident. Further, there was load-shedding in the area of Brahmagaon and as such, false statements are made that the witnesses have seen the assailants. Further, the trial may take its own time and hence he submitted that the applicant – Arjun Keshavrao Dhumal be released on bail.

7. Learned A.P.P. however points that not only the deceased was done to death by the applicant and his companion but the two family members i.e. his son and wife of the deceased had suffered grievous injuries. There are eye witnesses to the incident. There is no variance in the statements, as each of the witnesses have stated regarding part of the incident witnessed by them. The defence that there was darkness, is false and the same is required to be found out on merit of the case.

8. Upon hearing both sides, since there is a strong prima facie case that the present applicant – Arjun Keshavrao Dhumal alongwith three others had joined in causing death of the deceased and seriously injured two persons, this is not a fit case for releasing the applicant on bail. In the result, the following order:-

9. Criminal Application No. 3288 of 2015 is hereby dismissed.

10. The learned Judge is requested to take efforts for expeditious hearing of the Sessions Case.

11. Consequently, Criminal Application no.3760 of 2015, seeking permission to assist the A.P.P. in Criminal Application No.3288 of 2015, also stands disposed of.

[M.T. JOSHI]
JUDGE

arp/