

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

CRIMINAL APPLICATION NO.4515 OF 2015

Sandeep s/o Shivaji Chavan,
Age 32 years, Occu. Agri.,
R/o Akni (Tanda), Taluka Mantha,
District Jalna

..Applicant

Versus

The State of Maharashtra
through Mantha Police Station,
Taluka Mantha, District Jalna

..Respondent

Mr G.B. Kulkarni, Advocate for applicant
Smt. M.S. Patni, A.P.P. for respondent

CORAM : A.I.S. CHEEMA, J.

DATE : 22nd September 2015

PER COURT

Heard learned Counsel for the applicant and learned A.P.P. for the State.

2. Learned Counsel for the applicant referred to the contents of the first information report and submits that the first information report itself states that the victim (who gave first information report) could not identify the third person due to darkness. According to learned Counsel, the role attributed to the applicant was only of giving abuses, kicks and blows. The actual assailant with knife was Bhausahab. Thus, according to him, the applicant deserves to be released on bail. According to him, nothing is to be recovered.

3. Learned A.P.P. submits that the first information report itself shows that the applicant and said Bhausahab, under the influence of liquor were quarreling in front of house of the victim - Bhimrao

Rathod, who intervened and made them go away from near his house. According to learned A.P.P. because of such interference by the victim, the applicant and the other accused Bhausahab were angry and after some time they came back and the incident took place in which Bhausahab stabbed the victim. According to A.P.P. statement of witness Narayan Chavan also shows active role of the present applicant inasmuch as the fact that the applicant caught hold the victim and Bhausahab stabbed him.

4. I have gone through the case papers and specially, the statement of Narayan Chavan. It does appear that the accused persons, in furtherance of their common intention committed the offence. Looking to the material as available against the present applicant, it is serious offence under Section 302 of Indian Penal Code and considering the facts in the present application, this is not a fit case for grant of bail. The victim who was able to make the applicant as well as Bhausahab go away from near his house, could not protect himself, as it appears that the victim was taken by surprise when three accused suddenly attacked him. It cannot be said that the role of the applicant was of merely giving kicks and blows, and so bail should be approved.

5. There is no substance in the application. The same is rejected.

(A.I.S. CHEEMA, J.)

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