

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

1. CRIMINAL APPLICATION NO. 4821 OF 2015

Jawedkhan s/o. Ajamkhan Pathan**Applicant**

Versus

The State of Maharashtra**Respondent**

Mr. G.G. Kadam, Advocate for applicant.

Mr. V.H. Dighe, APP for State.

CORAM : T.V. NALAWADE, J.

DATED : 23rd November, 2015.

ORDER :

1. The application is filed for relief of bail. Both the sides are heard. The first application filed for bail came to be withdrawn when this Court expressed that the Court was not inclined to grant the bail to applicant and so, it needs to be treated that the first application filed for bail is rejected by this Court on merits. It appears that even when this Court was available, the second application filed for bail was taken before the other Hon'ble Judge of this Court and the said Hon'ble Judge also dismissed the application on merits. Thus, the present is the third application filed for relief of bail. In view of the earlier rejection, the learned counsel for the applicant is expected to show that there has been change in the circumstances.

2. The learned counsel for the applicant submitted that the applicant has been behind bars since July 2012 and the case has not made any progress and this circumstance is sufficient for giving bail to the applicant. The learned counsel for the applicant submitted that for enabling the applicant to contest and defend the matter effectively, he needs to be granted bail.

3. This Court has carefully gone through the papers of investigation. The crime was registered on the basis of report given by one Rahul Sonsale. One petty incident took place on 21.7.2012. At about 4.30 p.m. when the complainant and his friends including deceased Devanand were proceeding to hospital to have a cup of tea, a friend of complainant Shuklodhan received dash of applicant Jawed. Even when the applicant had given dash to Shuklodhan, applicant gave a slap to Shuklodhan and picked up a quarrel. The complainant and his friends belong to backward community. It appears that the present applicant then called his friends towards hotel and they came there with weapons like sword and iron rod etc. During the incident, they used these weapons. The name of the present applicant was mentioned in the F.I.R. and specific role is attributed to him. It appears that in supplementary statement

Rahul contended that applicant assaulted deceased Devanand also. The P.M. report shows that on the dead body of Devanand several injuries were found. Due to the injuries, there was haemorrhage in the brain and there were fractures of skull bone. The death took place due to head injury. There is allegation against the present applicant that he used iron rod and the injuries show that such weapon was used against Devanand. The other persons were also injured and there is evidence of eye witnesses.

4. The material collected shows that the applicant was leader of his group and they showed courage against the deceased and complainant as they belong to backward community. They had said to other side that a lesson needs to be taught to them. This conduct of the applicant cannot be ignored. The fact that some other accused were granted bail cannot be used in favour of the applicant as the material as against him is of different and that is of aforesaid nature. It appears that the case is now assigned to a judge, charge is framed and the matter is ready for leading evidence. Witness summons were also issued. There is clear possibility of tampering of the prosecution witnesses from the hands of the applicant. Considering his conduct which is already quoted, this

Court holds that it is not a fit case to grant the bail.

5. In the result, the application stands rejected.

[T.V. NALAWADE, J.]

ssc/