

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

CRIMINAL APPLICATION NO. 6543 OF 2014

Sudam Ashruba Jadav
Age: 28 years, Occu. Agri.,
R/o Bramhgaon,
Tq. Georai, Dist. Beed. .

...Applicant

versus

The State of Maharashtra.

...Respondent

.....

Mr. Nilesh Tribhuvan and Mr. Ashutosh S. Kulkarni, Advocates for
applicant.

Mr. R. P. Phatke, Advocate for respondent/State.

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CORAM : T. V. NALAWADE, J.

DATE : 3rd FEBRUARY, 2015

ORAL ORDER :

. The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation.

2. The alleged incident took place on 03/05/2014 after 9-30 p.m. On that night, deceased Walmik was present in the vicinity of house and wife Chaturabai was present inside of the house. When they heard barking of their dog, they came out of the house. Quarrel started there during the incident. Allegations are made that the person who was riding on motor cycle called

others. They all known to family of deceased. Allegations are made that when they started assaulting the deceased and the person from his family like Datta, ran away. Deceased and his wife Chaturabai ran towards the field side to hide themselves but chase was given to them by Keshav and Sudam. Allegations are made that they were holding weapon like sword and axe. Allegations are made that Arjun then took sword from Keshav and assaulted Walmik by using sword. Allegations are made that the deceased attempted to run away but the present applicant Sudam pushed him and made him to fall on the ground and after that he pressed his head on the ground and then Keshav gave blow of axe on the head of the deceased. Chaturabai was also assaulted. There are statement of eye witnesses. Learned Counsel for the applicant submitted that in the initial information given to the police by Datta, no information was given against present applicant and so, is entitled to get bail. This submission of learned Counsel for the applicant cannot be acceptable.

3. Papers of investigation show that widow of deceased sustained as many as six injuries which include two incised wounds. Thus, there will be evidence of injured eye witness and that needs to be given weight than the evidence which are given by other witness like Datta. Statements of other witnesses were recorded subsequently which are consistent with the statement of widow of deceased. Post mortem report shows

that, there were chop wounds over right forearm and four injuries over chest and other region. The death took place due to shock and haemorrhage due to chop injuries.

4. Learned Counsel for the applicant submitted that even if the material is accepted as it is, the material does not show that there were intention of murder. This submissions cannot be accepted. By holding dangerous weapon in his hand, present applicant had given chase to the deceased. When the deceased was attempting to run away, he was made to fall by present applicant and the applicant had pressed his head on the ground and blows were given by other accused. In the circumstances, *prima facie*, strong case is made out for offence punishable under Section 302 read with section 34 of the Indian Penal Code.

5. Considering the conduct of the applicant, there is every possibility of tampering prosecution witnesses at the hands of the present applicant. Learned Counsel for the applicant submitted that other four accused are granted bail by the Sessions Court. The allegations as against them made were of different nature and so, parity is not applied in this case. The case of present applicant is not similar to the case of those accused. The application is rejected.

6. The observations are made only for the purpose of deciding this application.

[T. V. NALAWADE, J.]