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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 411 OF 2015
IN
CRIMINAL APPEAL NO. 390 OF 2015

Mr. Ramesh Namdeo Naikwade

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr. Rameshwar N. Gite for applicant.

Mrs. Sangeeta D. Shinde, APP for State.

CORAM: B. P. DHARMADHIKARI &
A. S. GADKARI, JJ.

AUGUST 03, 2015.

P.C.

1. Heard. Submission is that prosecution story is of assault by fist blows and doctor has pointed out that injuries are possible by a sharp weapon. No such sharp weapon has been found. The deposition of so called eye witness – PW 3 also cannot be relied upon as she did not inform incidence to police immediately and kept mum till body was found next day in the morning. Learned counsel also states that no *mens rea* has been established.

2. With the assistance of the learned counsel for the applicant and learned APP, we have perused the impugned judgment as also evidence on record. Doctor in his examination-in-chief has stated that injuries noted by him can be caused by a forceful blow of stick. Sharp weapon has been introduced in his cross-examination by the accused. Similarly, blood stained clothes have been recovered and blood group "A" of deceased has been found on clothes of the applicant/accused no.1.

3. There were total three accused before the trial court and trial court has acquitted two persons and present applicant/accused no.1 has been convicted.

4. In this situation, we find that appreciation of evidence in more depth at this stage is not possible. No case is made out for grant of bail.

5. Criminal Application is accordingly rejected. Hearing of appeal is expedited.

(A. S. GADKARI,J.)

(B. P. DHARMADHIKARI,J.)