

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO. 376/2015
IN CRIMINAL APPEAL NO. 231/2015.

Munnalal Chotelal Soni (in jail)

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : **B.P.DHARMADHIKARI**
& P.N. DESHMUKH, JJ.

DATE : **JULY 14, 2015.**

Heard Shri P.K. Bezalwar, learned Counsel
for the applicant/appellant and Shri R.S. Nayak,
learned A.P.P. for respondent State.

2. Submission is, only evidence which at this
stage can be said to be against the appellant/ applicant
is of P.W.2 – Jagdish Ramkrishna Joshi, who states
that the applicant/ applicant started beating deceased
and abused him. Shri Bezalwar, learned counsel
states that as per said witness, Shri Tiwari used
wooden log and delivered its blow on the head of the

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deceased. Thus, by beating simply with hands, intention to kill cannot be attributed to the applicant. He further submits that the applicant was on bail throughout and has burden of family to support.

3. Learned A.P.P. points out that wooden log used by the other accused is not meant to be utilized for the business to which the handcart of appellant was put. He further states that the applicant/appellant has started the assault and hence, he cannot be released at this stage. He submits that clothes of the appellant are found to be stained with human blood in chemical analyzer's report.

4. Having heard the learned counsel for the parties, we find that the assault by the present applicant and attack by wooden log by the accused no.2 Tiwari form part of incidence. Tiwari was also working on the said handcart, where the deceased and P.W.2 had gone for eating omlet. The trial Court has found both the accused guilty of the offence under Section 302 read with Section 34 of the Indian Penal Code.

5. In this situation, no case is made out for grant of bail. Criminal Application is, therefore,

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rejected. However, hearing of Appeal is expedited.
The same be placed for hearing after paper book is
prepared.

Rgd.

JUDGE**JUDGE**