

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

CRIMINAL APPLICATION (APPA) NO.717 OF 2014
IN CRIMINAL APPEAL NO.588 OF 2014

(Javed Khan s/o Sultan Khan vs. The State of Maharashtra)

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

Shri R.M. Daga, Advocate for applicant.

Shri T.A. Mirza, Additional Public Prosecutor for
respondent.

CORAM : B.P. DHARMADHIKARI AND
 P.N. DESHMUKH, JJ.

DATED : JUNE 10, 2015

The offence under Section 302 of Indian Penal Code came to be registered in relation to incident dated 28/12/2013. The record shows that initially a missing report was investigated and during that investigation, the eye witness relied upon by prosecution, namely, Sunita wife of deceased was also interrogated. She had expressed total ignorance. She appears to have given her statement as an eye witness after about five days. That apart, the fact that she was interrogated earlier in connection to missing report is not in dispute. The reason as to

why alleged incident witnessed by her was not disclosed during missing report enquiry is not on record. Similarly, why her statement as eye witness was recorded after five days has also not been explained by the Investigating Officer. Assault on deceased by accused with stone as deposed to by her is not reflected in her statement under Section 161 of Code of Criminal Procedure. In fact, entire assault itself is an omission.

In this situation, criminal application is allowed. The applicant/appellant be released on bail on executing personal bond in the sum of rupees fifteen thousand and also on furnishing two sureties in like amount. He shall, however, report once in every two months before Sessions Judge, Yavatmal on such date as Office of that Court may specify during pendency of criminal appeal. Omission to so report shall be construed as breach of condition of release and shall result in automatic cancellation thereof.

JUDGE

JUDGE

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