

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram, orders or Registrar's	Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 548 OF 2016

JAGDISH S/O EKNATH KUBER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : MR. Kedar Balbhim R.
APP for Respondent: Mr. A. R. Borulkar.

CORAM: T. V. NALAWADE, J.
DATED: 18th FEBRUARY, 2016.

PER COURT:

1. The application is filed for bail. The previous application of the present Applicant, bearing No.240 of 2015 was rejected by this Court on merit on 17th February, 2015. Both the sides are heard.

2. While rejecting the previous application, this Court has considered the material which is collected against the present Applicant. Incident took place on 19th July, 2014 after 06.00 p.m. in thickly populated area. In the presence of the complainant, the present applicant had inflicted three stab injuries on the abdomen of deceased Shivaji and Shivaji died due to the

injuries. There are witnesses against the applicant.

3. Record like Panchanama etc. are consistent with the case of prosecution and under section 27 of the Evidence Act the weapon is recovered from the applicant. The postmortem report is consistent with the case of prosecution. This material is sufficient to make strong prima facie case against the applicant for the offence of murder. Dangerous weapon was used and incident took place in the thickly populated area. There is possibility of tampering with the prosecution witnesses at the hands of applicant and for that reason the application came to be rejected.

4. Learned counsel for the Applicant submitted that some material was brought to the notice of the Sessions Court in Application filed for anticipatory bail by Santosh Lahane. He took this Court through some observations made by the Additional Sessions Judge in the said matter. Surprisingly, some discrepancy and overwriting in M.L.C. In respect of the deceased is considered and discussed by the learned Additional Sessions Judge for granting relief to the said applicant. At this stage, it is not open to any criminal Court to say that the material collected by the State against the applicant is false.

Inspite of this position of law, the learned Additional Sessions Judge has done that exercise. In view of these circumstances, the said observations of the Additional Sessions Judge cannot be used in favour of the present applicant in the present proceeding. Learned counsel for the applicant submitted that subsequent to filing of the present application, mother of the applicant suffered accident and she was admitted in the hospital on 12th February, 2016. He submitted that she is physically handicapped and there is nobody to take her care. Learned A.G.P. in that regard submitted that she has one more son. In any case, if the applicant wants some concession can be given but on that ground relief of bail cannot be given. There is no change in the circumstances. Application stands rejected.

[T. V. NALAWADE, J.]

Dt.18/02/2016.
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