

2. Heard learned Counsel for applicants/accused. He argued that the incident in question has resulted in registration of cross-FIR on 03.05.2016 itself by one of the applicants, namely, Gulab Bapuji Gaikwad. Learned Counsel further argued that the incident in question took place, even according to the prosecution case, because of dispute between both the parties over work entrusted to one of the accused. By drawing my attention to the F.I.R.

as well as supplementary statement of the informant, it is averred that in the supplementary statement, iron rod is attributed to accused apart from stone tied to a scarf. It is further argued that injury No.1 in column No.17 of post-mortem report is not in tune with internal injury reflected in column No.19 of post-mortem report.

3. Learned A.P.P. opposed the application by pointing out statement of Kavita Dattu Shinde, in order to state in the manner in which the incident in question occurred. He further relied on post-mortem report.

4. Perused the charge-sheet. The incident in question took place on 02.05.2016 and the F.I.R. came to be lodged on 03.05.2016. According to the prosecution case, contract of fixing tiles was given to applicant No.2-Gautam and as he had not done that work, informant Dattu question him. Then according to prosecution case, there was quarrel between them. Thereafter, all accused persons came on the spot and assaulted the informant as well as his father Pundlik Shinde. Because of injury suffered by him, Pundlik Shinde died.

5. There are eye-witnesses to the incident in question. In the F.I.R. the informant is attributing stick and stone to accused persons; whereas in

supplementary statement, he is attributing iron rod as well as stone as weapon of offence. The post-mortem report shows that the deceased has suffered three contused lacerated wounds and one abrasion. Contused abrasion on head of the deceased is of size 1 x 1 cm and corresponding internal injury is showing under scalp hematoma of size 3 x 2 cm. The cause of death is head injury.

6. Minor inconsistencies in prosecution case which do not go to the root of the case are of no consequence. Such inconsistencies are required to be ignored. Basic version of the prosecution case that the assault by the accused person has resulted in death of Pundlik Shinde is not coming on record by either omission or improvement. Prima facie it is seen that the accused persons formed unlawful assembly and in prosecution of common object of that assembly, informant Dattu was assaulted; whereas Pundlik Shinde was murdered. Impact of surface wound may be larger than the surface. No case is made out for bail.

7. The application is, therefore, rejected.

[A.M. BADAR, J.]