

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 581 OF 2016
IN
CRIMINAL APPEAL NO. 140 OF 2016

Dagadu Gopal Zinjade & ors. ... Applicants

V/s.

The State of Maharashtra ... Respondent

Mr. V.V. Purwant for the applicant.
Mr. G.P. Mulekar, APP for the State.

**CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.**

2nd September, 2016.

P.C.

The applicant and three others were charged for an offence punishable under Section 302 read with Section 34 of I.P.C. and under Section 25 of the Arms Act. Deceased is son of the applicant. They are residing separately. The applicant had two sons. On account of use of well water there were some disputes between the accused and the deceased. On the day of the incident it is alleged that the accused no.1 Santosh Zinjade, brother of the deceased assaulted the deceased with a

chain. At that time other accused person had caught hold of the deceased. In a later incident which occurred on the same date, the accused no.1 took out a gun and fired at the deceased. Deceased succumbed to the said injury. The wife of the deceased and other eye witnesses deposed in favour of prosecution.

2. We have perused the depositions of witnesses placed on record by the Counsel appearing for the applicant.

3. Prima-facie we find that in the second incident wherein accused no.1 took out a gun and shot the deceased, the presence of the applicant was not mentioned. The gun admittedly was registered in the name of the applicant.

4. Learned Counsel submits that applicant was on bail during trial. He is father of the accused no.1 and the deceased. He is 70 years old person and considering his old age and the role attributed to him, he be released on bail.

5. Learned APP opposes the bail application and submitted that what role the applicant played shall be considered at the time of final hearing of

appeal. The trial Court after appreciating the matter, convicted the applicant for a serious crime.

6. We have perused the record, depositions and injuries noted by the medical officer PW6 Dr. Santosh Goli as described by him in his examination-in-chief. The probable cause of death is Fire arm injury to abdomen. Prima-facie we find that the applicant is not an assailant. A gun was used by father of the applicant. The gun is registered in the name of the applicant. On that count it would not be reasonable and proper to deny him bail. Moreover, the applicant was on bail during trial. He is an old person. Taking into consideration all these factors, we are inclined to allow the application.

ORDER

(i) The application is allowed;

(ii) Pending hearing and final disposal of the appeal the substantive sentence awarded against the applicant on 2nd February, 2016 in Sessions Case No.68 of 2014 by the Ld. Additional Sessions Judge, Barshi stands suspended;

(iii) Pending hearing and final disposal of the Appeal, applicant – Dagadu Gopal Zinjade is directed to be released on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.