

FARAD CONTINUATION SHEET

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

Criminal Application (ba) No. 557 of 2016

Sachin s/o Shankarrao Dehane

v.

State of Maharashtra, thr. P.S. Hinganghat, Wardha

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

Court's or Judge's orders

Mr. Mahesh Rai Advocate for the applicant.
Mr. S.S. Doifode, APP, for the respondent/State.

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Coram : S.B. Shukre, J.

Date : 19th JULY, 2016.

Heard learned counsel for the applicant and learned APP for the respondent/State.

It has been alleged that in the night of 25.8.2014, at about 8-30 p.m, outside the house of the deceased, this applicant and the co-accused assaulted the deceased by giving him blow of wooden log on the head of the deceased and killed him instantaneously on the spot of the incident. It is seen from the charge-sheet that there are some eye witnesses to the incident. They are Raju Chanekar and Rupali Khadse, who are stating that they had seen this applicant and the co-accused as brutally assaulting the deceased. According to learned counsel for the applicant, there is inconsistency in the statements of these witnesses. He submits that Raju Chanekar is saying that at the relevant time all the witnesses were inside the house whereas Rupali Khadse is maintaining that she was, at the

relevant time, outside the house. He further submits that Rupali states that all the witnesses ran towards the spot of incident in order to rescue the deceased from the murderous assault, whereas Raju states that he first reached the spot of incident and the other eye witnesses followed him. On carefully going through the police statements of both these witnesses, prima facie, I do not find any inconsistency as tried to be pointed out by the learned counsel for the applicant. It appears that the house of the deceased was a single storied house and, therefore, it is possible that some of the eye witnesses might have seen the assault by remaining outside the house. Then, there is also a question as to what is the meaning of the expression "inside the house" and the answer to the question would have to be considered in the light of the situation of the house. At present, detailed evidence has not been recorded and, therefore, it is not possible to make any comment regarding situation of the house. It appears that when the witnesses say that they were inside the house, which is a single storied and which is not a closed house, like an apartment, even standing in the courtyard of such a house might be included in the connotation and expression "inside the house". But, as said earlier, nothing can be commented at this stage and this will have to be left to be considered on the merits of the case. But, prima facie, I would say that there is no inconsistency between the statements of the witnesses.

Learned counsel for the applicant submits that there is no seizure panchanama showing seizure of clothes of this applicant and, therefore, there is a doubt about the manner in which investigation has been done and the possibility of this

applicant being falsely implicated cannot be ruled out. I am not inclined to accept the argument for the simple reason that at this stage there is prima facie evidence which is in nature of the accounts of the eye witnesses, which shows involvement of the applicant in the offence registered against him.

Learned counsel for the applicant submits that there is a delay of about 15 days in recording of statements of witnesses. I must say, this argument pertains to the defence of the accused and cannot be considered appropriately at this stage. Even otherwise, if the Investigating Officer has belatedly recorded the statements of the witnesses, the witnesses could not be faulted with for the mistake of the Investigating Officer. Therefore, this argument cannot be accepted. The offence of murder is very serious and, therefore, the applicant would not be entitled to be released on bail. Hence, the order.

Criminal application stands rejected.

Judge

/TA/

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