

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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CRIMINAL APPLICATION NO. 236 OF 2017
IN APEAL/19/2017 WITH APEAL/19/2017
SATISH S/O SURESH SHRISUNDE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for appellant/applicant: Mr. S.G. Ladda
APP for Respondent/State: Mr. S.B. Yawalkar

...
CORAM: S.S. SHINDE & K.K. SONAWANE, JJ.
Dated: March 21, 2017

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Heard the learned counsel appearing
for the appellant/applicant and the
learned A.P.P. appearing for the
respondent/State.

2. The learned counsel appearing for the
appellant/applicant submits that, if the
evidence of PW-1 Jagannath Eknath Yeole
is considered, he stated that, accused
Satish hit hammer on the head of his son,
however, PW-4 – Sandip Yeole, who is real
brother of the deceased, in his evidence
stated that, accused Akash hit a hammer
on the head of his brother Umesh

(deceased). He submits that, when these discrepancies were pointed out to the trial Court, the trial Court even not adverted to the contentions raised by the counsel for the appellant and there are no findings recorded to that effect. He further submits that, even if the evidence of eye witnesses is taken as it is, the incident had taken place suddenly without any premeditation or intention. He further submits that, if the medical evidence is considered as it is in that case, the blood would have come out from wound, if at all the medical evidence is to be believed. He invites our attention to the findings recorded by the trial Court and submits that, the trial Court has recorded the cryptic findings, and therefore, the application may be allowed.

3. On the other hand, the learned A.P.P. appearing for respondent/State invites our attention to the evidence of three eye witnesses namely PW-1 – Jagannath Eknath Yeole, PW-3- Mangalabai Jagannath Yeole and PW-4-Sandip Jagannath Yeole. He submits that, the version of the eye witnesses gets corroboration from the medical evidence and other attending

circumstantial evidence.

4. We have considered the submissions advanced by the learned counsel appearing for the applicant/appellant and the learned A.P.P. appearing for the respondent/State. With their able assistance, we have perused the notes of evidence. It is true that, PW-4 Sandip Yeole in his evidence first stated that, Satish and Akash started scuffling with his brother. When his father went to separate the quarrel, they scuffled with him. Then he stated that, accused Akash hit a hammer on the head of his brother Umesh. However, it is necessary to read his evidence in its entirety. Therefore, the presence of the appellant with Akash is stated by all the witnesses. Even the scuffle is also stated by all the witnesses.

5. At the stage of application for consideration of bail, this Court is not supposed to reappreciate the entire evidence. We find that, prima facie, the findings recorded by the trial Court are in consonance with the evidence brought on record. The reasons assigned by the trial Court in paras 39 and 40 of the judgments are prima facie convincing. In

that view of the matter, we are not inclined to entertain the application. Hence, the application stands rejected.

6. The Registry of this Court shall send original Record and Proceedings to the Registry of Additional Sessions Judge, Aurangabad. Upon receiving the original record and proceedings by the Registry of the Additional Sessions Judge, Aurangabad, the Registry of concerned Court shall prepare the paper book and send it back along with original record and proceedings, as expeditiously as possible, and preferably within three months from receipt of the original record and proceedings.

7. In addition to above, the learned counsel appearing for the appellant/applicant would be at liberty to file the private paper book excluding the Roznama and upon filing such private book liberty to mention for early hearing of the appeal.

(K.K. SONAWANE, J)

(S.S. SHINDE, J)