

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

36 CRIMINAL APPLICATION NO. 1628 OF 2017

MUNJAJI @ PAPPU S/O. SHIVAJI KACHAVE
VERSUS
THE STATE OF MAHARASHTRA

Shri. Anup R. Nikam, Advocate, for applicant.

Shri. S.M. Ganachari, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 17 April 2017

ORDER:

1) The application is filed for bail. Both the sides are heard. The papers of investigation were made available for perusal. The previous application bearing Criminal Application No.5243 of 2016 was withdrawn by the present applicant on 21-11-2016. Argument was advanced in that matter and so it can be said that the Court was not inclined to grant the relief. However liberty was given to file application if trial was not commenced within four months from 21-11-2016. Due to such order, present application is filed.

2) This Court has carefully gone through the papers of investigation. The incident in question took place in day time between 10.00 and 10.30 a.m. in the disputed field. Allegations are made that the complainant side was present in the field as promise was given by the mother of the applicant to give share to the complainant side in the land. Allegations are made that during partition present applicant said that he needs to be given more portion as he had taken care of the grand mother, original owner of the property and then the quarrel started. Allegations are made that during quarrel present applicant assaulted Laxman Salve, Nilesh and the deceased. Allegations are made that stone was hit on the head of Bhausahab, father of the complainant and due to that he collapsed and became unconscious on the spot. Attempt was made to save his life but he succumbed to the head injury.

3) Police papers show that there are statements of eye witnesses. Post mortem report shows that one contusion was present over left parietal temporal area of size of 8 x 7 cm with depression. There was depressed

fracture in left temporal area of skull. Due to this injury, there was under scalp haemorrhage in left parietal temporal area. The bone which was fractured had entered the cavity. The death took place due to aforesaid head injury.

4) The learned counsel for the applicant submitted that the incident took place all of a sudden and it cannot be said that there was intention of the present applicant to finish Bhausahab. This submission is not at all acceptable. When big stone was used as a weapon and it was hit on the head, it cannot be said that there was no intention to cause the injury which is sufficient to cause death in ordinary course. This material is sufficient to make out a case of murder. The things have not changed and there are aforesaid circumstances. Relatives are the eye witnesses and there is possibility of tampering with the witnesses from the present applicant. In the result, the application stands rejected. The observations made are for the present purpose only.

Sd/-
(T.V. NALAWADE, J.)

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