

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

Criminal Application No. 1284 Of 2015.

MAHESH S/O GORAKSH BORHADE & ORS.
VERSUS
THE STATE Of MAHARASHTRA.

Appearance =>

Mr. Nitin B. Suryawanshi, Advocate for the Applicants.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 16th April, 2015.

Per Court :-

Present Criminal Application is filed by the Applicants for grant of regular bail in connection with CR No.199/2014 registered with Police Station, Shirdi, Talukar – Rahata, District – Ahmednagar for the offences punishable under Section.s. 302, 201 read with 34 of the Indian Penal Code.

[2] Heard Mr. Nitin B. Suryawanshi, learned counsel for the Applicants and Mrs. Pratibha Bharad, learned Additional Public for the Respondent - State of Maharashtra.

[3] Already the Investigating Officer has completed the entire investigation and Charge-Sheet is filed in the Court. In the entire Charge-Sheet, there is no eye witness account and case is based on circumstantial evidence. More so, fact that, in the statements of the witnesses who say that on 18th October, 2014 applicant No.1 – Mahesh, who is the owner of flower

shop gave two slaps to the deceased – Vaibhav, who used to work on his shop and thereafter, the applicant took away said boy on the motorcycle. Except this particular statement, which is available on record, in all the statements of the witnesses recorded during the course of investigation, there is no other evidence against the present applicants.

[4] Mrs. Pratibha Bharad, learned Additional Public Prosecutor submitted that, under the statement of present applicant No.1 recorded under Section 27 of the Indian Evidence Act, he has agreed to discover the stick, used in the commission of offence. However, recovery panchnama in pursuance to the discovery statement, which is placed on record alongwith the Charge Sheet, does not show recovery of the stick but motorcycle.

[5] Since the entire investigation is over and there is no eye witness account and since till today, charge is not framed, it is expedient in the interest of justice to release the applicants on bail. Hence, I pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) Applicant No.1 – Mahesh Goraksha Borhade and Applicant No.2 – Bhupesh Uttam Wakchaure shall be released on regular bail on they executing P.R. Bond of Rs. 25,000/- [Rs. Twenty Five Thousand.] each with two solvent surety in the like amount, in connection with CR No.199/2014 registered with Police Station, Shirdi, Talukar – Rahata, District – Ahmednagar for the offences punishable under Section.s. 302, 201 read with 34 of the Indian Penal Code.

(iii) Bail before trial court.

(iv) The Applicants shall attend the Police Station, Shirdi, Talukar – Rahata, District – Ahmednagar twice in a week, preferably on every Sunday and Tuesday, between 10.00 a.m. to 12.00 Noon till Charge-Sheet is framed.

(v) Criminal Application allowed and same is disposed of accordingly.

(V.M. DESHPANDE, J.)