

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

CRIMINAL APPLICATION NO. 1857 OF 2015

Shrikant s/o Ramesh Koli

.... APPLICANT

V E R S U S

The State of Maharashtra

.... RESPONDENT

.....

Mr. N.S.Ghanekar, Advocate for Applicants.

Mr. A.S.Shinde, A.P.P. for Resp.– State.

.....

WITH

CRIMINAL APPLICATION NO. 1959 OF 2015

Nilesh Shivaji Tarte

.... APPLICANT

V E R S U S

The State of Maharashtra & Anr.

.... RESPONDENTS

.....

Mrs. Rashmi S.Kulkarni, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for R – 1 State.

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CORAM : V.M.DESHPANDE, J.

DATE : 28th APRIL, 2015

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PER COURT :

1. By these two applications, applicants, who are accused Nos. 3 and 4 are seeking their release on bail since they are arrested in connection with Crime No. 143/2014 with Supa Police Station, Dist. Ahmadnagar for the offences punishable u/s 302,343,364,176,202,507 read with 34 of the Indian Penal Code, u/s 3 (i) (x), 3 (2) (5) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocity] Act and u/s 7 (i) (d) of Protection of Civil Rights Act.

2. Heard Mr. N.S.Ghanekar and Mrs. Rashmi S.Kulkarni, learned counsel for applicants and Mr. A.S.Shinde, learned A.P.P. for Respondent – State in extenso.

3. Investigating officer has already completed entire evidence and charge sheet is filed before the Court below.

4. There is no eye witness account in so far as present applicants are concerned that they have assaulted deceased Amol in their presence. Date of occurrence is 16/08/2014. The date of death of Amol is 19/09/2014 and Ashok, father of the deceased has lodged F.I.R. on 13/12/2014.

5. Both the applicants are arrested on 17/12/2014.

6. During the investigation, there is no recovery or discovery of any article except mobile phone of the applicants.

7. Learned A.P.P. invited my attention to the statement of Sunil Thorat, who is the owner of Yashraj Hotel. His statement is recorded on 05/12/2014. His statement would reveal that on 05/12/2014, applicant Shrikant was brought before him by police in his hotel. It is stated by him in his statement that on 16/08/2014, present applicants with another person, who was later on identified as deceased Amol had been to his hotel and they were having their drinks. At that time, four other persons came there in Indica car. They pick up quarrel with applicants and deceased. Thereafter, the persons who reached to the hotel in Indica car were trying to take away deceased in his Indica car and that act was objected by present applicants. Except this, learned A.P.P. was unable to point out any incriminating material against applicants.

8. In so far as recovery of mobile phone is concerned, that mobile phone was not belonging to the deceased but those are of the applicants. Therefore, recovery loses its importance. Learned A.P.P. submitted that Skoda car is also seized. Said car is not owned by any of the applicants. Further, according to the statement of hotel owner Sunil, deceased was taken in the Indica car. Learned A.P.P. has invited my attention in respect of the seizure of CC TV footage, which was seized from Hotel Yashraj. In that behalf, it would be useful to refer to the statement of Sunil, hotel owner. He has stated in his statement that CC TV footage capacity is only 500 GB and having capacity to store the data only for one month. Since incident is dated 16/08/2014, he is unable to give CC TV footage data of the said date. In that

view of the matter, mere seizure panchanama of CC TV footage is not of any use, at least *prima facie* for the prosecution.

9. In the light of aforesaid evidence and looking to the fact that charge sheet is already filed, further custodial presence of the applicants is not at all necessary.

10. Hence, I pass the following order :

(i) Present Criminal Application is allowed.

(ii) Applicant Shrikant s/o Ramesh Koli in Criminal Application No. 1857 of 2015 and applicant Nilesh Shivaji Tarte in Criminal Application No. 1959 of 2015 be released on bail in connection with Crime No. 143/2014 with Supa Police Station, Dist. Ahmadnagar for the offences punishable u/s 302,343,364,176,202,507 read with 34 of the Indian Penal Code, u/s 3 (i) (x), 3 (2) (5) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocity] Act and u/s 7 (i) (d) of Protection of Civil Rights Act on they executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] with one solvent surety of like amount by each of them. Bail before the trial Court.

(iii) Present applicants shall attend Supa Police Station once in a week preferably on every

Sunday between 3.00 p.m. and 4.00 p.m. till the charge is framed by the Court below.

(iv) With these observations, present Criminal Applications are disposed of.

[V.M.DESHPANDE, J.]

KNP/Cr.Apln. 1857....2015