

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

CRIMINAL APPLICATION NO. 3377 OF 2015

Arun s/o Digambar Jadhav & Anr. **APPLICANTS**

V E R S U S

The State of Maharashtra **RESPONDENT**

.....

Mr. A.S.Shejwal, Advocate for Applicants.

Mrs.S.G.Chincholkar, A.P.P. for Resp. – State.

.....

CORAM : V.M.DESHPANDE, J.

DATE : 17th JULY, 2015

.....

PER COURT :

1. This is an application for grant of bail. Applicants are arrested in connection with Crime No. 78/2015 registered with Khultabad police station, District Aurangabad for the offences punishable u/s 302,304,504 read with 34 of the Indian Penal Code and u/s 3 (ii) (v) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act.

2. Heard Mr. A.S.Shejwal, learned counsel for the applicants and Mrs.S.G.Chincholkar, learned A.P.P. for respondent – State.

3. Deceased in the present Crime is Shamiyal Yoseph Wadagale. F.I.R. is lodged by Vikas Sheku Admane, who is brother-in-law of the deceased. F.I.R. is lodged on 06/05/2015. According to F.I.R., on 05/05/2015, deceased and the first informant were watching Tamasha in village Gadana. In the midst of that Tamasha, first informant with one Yogesh Sonawane left the said place for consuming liquor and thereafter he took the motorcycle of the deceased and went to Golegaon. After enjoying the drink or two at Golegaon, both returned to Tamasha. That time, according to the F.I.R., it is reported to the first informant that in absence of the first informant, three persons took up quarrel with him on mobile phone. At 1.30 in the night, both the deceased and the first informant left the place of Tamash and were near the motorcycle. That time, present applicants who are known to the first informant and one Ganesh Charbhare came there. According to F.I.R., he know all these three persons. That time, present applicants used abusive words in the name of mother and sister of the deceased. That time, co-accused Ganesh Charbhare pull down the deceased from the motorcycle and gave two slaps, due to which he fell on the cement tank and immediately he lost his consciousness. Subsequently, it was found that Shamiyal has succumbed.

From the F.I.R., it is clear that no overt act on the deceased is attributed to the present applicants. Supplementary statement of the first informant is also recorded. Though there is reference to the present applicants about the overt act, said statement is most general in nature. In that view of the matter, when specific role is attributed

against Ganesh Charbhare, further custodial presence of the applicants who are in jail since 06/05/2015 need not be continued merely because the charge sheet is not filed. That leads me to pass the following order.

- (i) Present Criminal Application is hereby allowed.
- (ii) Applicant No. 1 Arun s/o Digambar Jadhav and applicant No. 2 Nitin s/o Pandit Wagh be released on bail in connection with Crime No. 78/2015 registered with Khultabad police station, District Aurangabad for the offences punishable u/s 302,304,504 read with 34 of the Indian Penal Code and u/s 3 (ii) (v) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] 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) Applicant No. 1 Arun s/o Digambar Jadhav and applicant No. 2 Nitin s/o Pandit Wagh shall attend Khultabad police station once in a fortnight preferably on every Sunday between 3.00 – 5.00 p.m. till the charge is framed by the learned trial Court.

- (iv) With these observations, Present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]

KNP/Cr.Apln. 3377.2015