

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

CRIMINAL APPLICATION NO.4079 OF 2015

Shaikh Amjat s/o Shaikh Jalal,
R/o. Ambedkar Nagar, Basmath Nagar,
Tal. Basmath Nagar, Dist. Hingoli,
& ors.

...Applicants

versus

The State of Maharashtra.

...Respondent

.....
Mr. Rajendra S. Deshmukh, Advocate for applicants
Mr. A.P. Basarkar, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 19th OCTOBER, 2015

ORAL ORDER :

Heard learned Counsel for the applicants.

2. The present applicants are seeking regular bail in Crime No. 31/2015 registered on 07/04/2015, with Basmath City Police Station, Tq. Vasmat, District Hingoli, for the offence punishable under Sections 302, 307, 147, 149, 323, 504 read with Section 34 of the Indian Penal Code.

3. The Counsel for the applicants would submit that the applicants are falsely implicated in the crime in question. According

to him, since investigation in the matter is already completed, there is no point in detaining the applicants, as custodial interrogation of the applicants will be of hardly any assistance to the prosecution. In addition to above, he would submit that applicant No.1 is husband of sister in law of deceased, whereas applicant No. 2-husband of victim and applicant No.3- mother in law, are falsely implicated in the crime in question. He would urge that even if the case of incident of death of victim is place of residence of her real sister in law, no specific role is attributed to applicant Nos. 1 and 2 in the present case. According to him, applicant No. 3 – mother in law, is aged 55 years, her prayer to grant of bail is required to be considered under the provisions of Section 437 of Code of Criminal Procedure.

4. While opposing the bail application of the present applicants, learned A.P.P. would urge that there is sufficient material available on record, so as to infer *prima facie* involvement of the applicants in crime in question. While supporting the case, he has taken me through the contents of the charge sheet.

5. Upon analyzing the submissions made by the respective parties, it is required to be noted that the place of incident of death of victim is place of residence of her real sister in law, at which place applicants herein were present at the time of incident. Same could be

inferred from the spot panchnama. It is also required to be noted that the complaint was lodged by victim herself, which is in the form of first dying declaration recorded on 06/04/2015. There was one more dying declaration recorded by the Executive Magistrate on 07/04/2015 wherein the applicants herein are specifically named as accused with specific role attributed to each of them. There is sufficient evidence available on record in the form of statement of the witnesses, which speaks *prima facie*, involvement of the applicants in the crime in question.

6. Even though applicant No. 2 – husband is not directly involved in the commission of crime in question but record depicts that applicant No.2- husband was present on the spot when the altercations in between victim and the applicants took place and instead of intervening in the said matter and saving victim-his wife, it appears that applicant No. 2 left the spot. His conduct, *prima facie*, in my opinion, is nothing but mute consent to the commission of crime in question.

7. In view thereof, no case for grant of bail is made out. Criminal Application fails, stands dismissed.

[N.W. SAMBRE, J.]