

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

CRIMINAL APPLICATION NO.4678 OF 2015

1. Atul s/o Arun Pawar,
Age 24 years, Occu.
Service, R/o Ghatpimpri
Taluka Washi,
District Osmanabad
Now at present 15, Corps
Zonal Workshop,
Old Air Port, Shrinagar
(Jammu & Kashmir)
 2. Chandrakant s/o Bhausahab
Satpute, Age 32 years,
Occu. Agriculture,
R/o Ghatpimpri, Taluka Washi,
District Osmanabad
 3. Dattatraya s/o Vasudeo Aware,
Age 30 years, Occu. Agri.,
R/o Ghatpimpri, Taluka Washi,
District Osmanabad
- ..Applicants

Versus

1. The State of Maharashtra,
through Police Station, Washi,
District Osmanabad
 2. The Superintendent of Police,
Osmanabad, District Osmsnabad
- ..Respondents

Mr S.J. Salunke, Advocate for applicants
Mrs B.B. Gunjal, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 8th September 2015

PER COURT

1. The applicants herein are seeking pre-arrest bail in Crime No.139/2015 registered at Washi Police Station, District Osmanabad for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The accusations against the present applicants are, in the night at 11 O'clock on 4th August 2015, they went to Swaraj Dhaba, which was owned by one Vijay Talekar and demanded food which request was not acceded to resulting into the applicants assaulting one Rahimoddin Sharfoddin Shaikh, who was working as a Cook in the said Dhaba.

3. Perusal of the first information report reflects that the same was lodged on hearsay intimation received from complainant's son-in-law, namely Fayyaz Pathan who was informed by the owner of the Dhaba about involvement of the present applicants in the commission of crime.

4. Perusal of the first information report and other investigation papers reflects that the role attributed to the present applicants for grant of pre-arrest bail is that they have assaulted said deceased Rahimoddin Sharfoddin Shaikh with fists and kicks blows.

5. The cause of death as is attributed from the case papers reflects that the accused Manoj is already arrested as he has assaulted said Rahimoddin Shaikh and as such, Rahimoddin fell on the cement floor causing serious injury to his head and became unconscious. The incident occurred on 4th August 2015 and the deceased thereafter was admitted to hospital and expired on 8th August 2015.

6. In view thereof, prima facie case is sought to be made out against the present applicants by the prosecution under Section 302

of the Indian Penal Code raises doubt. Having regard to the attribution against the applicants, prima facie, the prosecution under Section 302 of the Indian Penal Code against the applicants is under cloud. As such, in my opinion, it will be appropriate to release the applicants on pre-arrest bail on following conditions :

(I) The applicants Atul son of Arun Pawar, Chandrakant son of Bhausaheb Satpute and Dattatraya son of Vasudeo Aware, in the event of their arrest, be released on bail in Crime No.139/2015 registered at Washi Police Station, District Osmanabad for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, upon furnishing P.R. Bond of Rs.10,000/- along with two sureties in the like amount, by each of them.

(II) The applicants shall attend Police Station, Washi, District Osmanabad for a period of four days everyday between 10.00 am to 11.00 am and thereafter, as and when called for.

(III) The applicants shall keep themselves away from the jurisdiction of Police Station, Washi, but for the investigation purpose.

(IV) The applicants shall attend the elections of Sarpanch only for the purpose of voting and shall keep themselves away from the jurisdiction of Washi Police Station, after casting the votes.

7. Criminal Application stands disposed of in above terms.