

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

CRIMINAL APPLICATION NO. 5709 OF 2015

Bhausahab @ Bhaurao s/o Ajinath
Bahir

..... **APPLICANT**

V E R S U S

The State of Maharashtra

.... **RESPONDENT**

.....

Mr. N.C.Garud, Advocate for Applicant.

Mr. A.R.Kale, A.P.P. for Resp. - State.

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CORAM : INDIRA K. JAIN, J.

DATE : 30th NOVEMBER, 2015

ORAL ORDER :-

. Applicant is involved in Crime No. 76/2014 registered at Jamkhed police station, district Ahmednagar for the offences punishable u/ss 302,452,325,324,143, 147,148,149,323,504,506 of the Indian Penal Code and u/s 3/25 and 4/25 of the Indian Arms Act.

2. Heard Mr. N.C.Garud, learned counsel for applicant and Mr. A.R.Kale, learned A.P.P. for Respondent – State. Perused case papers.

3. It is the case of prosecution that on 12/05/2014 at about 6.00 a.m. in the vicinity of village Katewadi in front of house of complainant Bapusaheb Asaram Bahir applicant with other unknown persons formed an unlawful assembly, illegally entered the house of complainant and assaulted complainant's father Asaram Bahir and his brother Nitin Asaram Bahir by means of Sword, Koyta, sticks, iron rod and axe. Both Asaram and Nitin sustained grievous injuries on the vital parts of body. They succumbed to injuries and died.

4. On perusal of F.I.R. it appears that no overt act is attributed to present applicant. No weapon is recovered at his instance. Allegations in F.I.R. against applicant are almost same as in respect of other co-accused who were released on bail by the learned Additional Sessions Judge, Ahmednagar vide Order dated 18/09/2014 in Misc. Criminal application No. 944/2014.

5. Applicant is permanent resident of village Katewadi, Taluka Jamkhed, District Ahmednagar. There is no likelihood of his fleeing from justice. He was arrested on 14/05/2014. Since then he is in custody.

6. Considering the allegations in F.I.R., statements of eye witnesses and since no overt act is attributed and there is no recovery of weapon from applicant, this Court is inclined to allow the application. Hence, the following order.

ORDER

- (i) Criminal Application No. 5709 of 2015 is allowed.
- (ii) Applicant is released on bail in Crime No. 76/2014 registered at Jamkhed police station, district Ahmednagar for the offences punishable u/ss 302,452,325,324,143,147, 148,149,323,504,506 of the Indian Penal Code and u/s 3/25 and 4/25 of Indian Arms Act on his furnishing P.R. and S.B. of ₹ 50,000/- [Rupees Fifty Thousand] each.
- (iii) Applicant shall not tamper with the prosecution evidence and shall make himself available as and when required.
- (iv) Bail before the trial court.

**[INDIRA K. JAIN]
JUDGE**