

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

CRIMINAL APPLICATION NO.968 OF 2016

1. Balu Kalyan Pawar,
Ae 25 years, Occu. Labour,
R/o Pardhipidhi, Taluka Washi,
District Osmanabad
2. Ashabai Baban Pawar,
Age 30 years, Occu. Household,
R/o as above
3. Prakash Laxman Pawar,
Age 30 years, Occu. Agri.,
R/o as above .. Applicants

Versus

- . The State of Maharashtra
Through Washi Police Station,
Washi, Taluka Washi,
District Osmanabad .. Respondent

Mr S.S. Jadhavar, Advocate for applicants
Mr A.S. Shinde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 3rd March 2016

PER COURT

Heard.

2. The applicants are seeking regular bail in Crime No.128 of 2015 registered on 16th July 2015 at Washi Police Station, District Osmanabad, for the offences punishable under Sections 302, 147, 148, 149 and 504 of Indian Penal Code.

3. All the applicants were arrested on 16th July 2015 i.e. the date of the incident. The prosecution story against the applicants is that the applicants were harvesting soybean crop in their field. The

complainant entered and destroyed their field by taking his animals for grazing, which has resulted into assaulting the father of the complainant Rama namely Rustum by the applicants. Having received blow of stick on head, complainant's father Rustum succumbed to the injury, as such offence in question came to be registered.

4. Learned Counsel for the applicants Mr Jadhavar would urge that there are no criminal antecedents and the role attributed to the applicants is that of use of sticks, fist blows in the commission of crime. According to him, the nature of weapons, as are used to have been attributed against them would speak of the intention of the present applicants of not committing a serious crime like murder. According to him, the intention was only to warn the complainant so that his animals will not enter into the field of the applicants. He would then urge that investigation in the matter is complete and charge-sheet is already filed and the applicants are behind the bars since about last seven months.

5. Learned A.P.P. opposed the application on the ground that perusal of F.I.R. depicts a common intention of the accused persons. He would submit that each of the applicants is attributed a specific role and have actively participated in the crime in question. According to him, the evidence as brought calls for rejection of application.

6. Perused the charge-sheet filed in the matter. It is required to be noted that the deceased and the present applicants are related to

each other. It is claimed that Rustum, who has died of head injury was aged of 70 years. None of the applicants are attributed the role of assaulting on the head, which is shown to have been caused for death of Rustum.

7. Apart from above, it appears that the incident has occurred in the backdrop of crops of the applicants' damaged by the animals of the complainant.

8. Nature of weapons used in commission of crime and the corresponding injury caused, in my opinion, cannot attribute the intention of applicants of killing Rustum. In view of above, in my opinion, as the investigation is over and the charge-sheet is already filed and there are no criminal antecedent, it will be appropriate to order release of the applicants.

9. As such, Criminal Application stands allowed. The applicants be released on bail in Crime No.128 of 2015, registered on 16th July 2015 at Washi Police Station, District Osmanabad, for the offences punishable under Sections 302, 147, 148, 149 and 504 of Indian Penal Code, upon furnishing P.R. Bond of Rs.10,000/- with one surety in the like amount, by each of them.

(N.W. SAMBRE, J.)