

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

**CRIMINAL APPLICATION NO. 1907 OF 2016
IN
CRIMINAL APPEAL NO.213 OF 2016**

1. Firoj Akbar Shaikh
Age: 36 years, Occu: Business
2. Jyoti Ganpat Shingade
Age: 22 yrs. Occu.Household.
3. Raju Bhausahab Dive
Age: 22 yrs. Occu.Labour work
4. Babasaheb Sabaji Bare
Age: 29 yrs. Occu. Agriculture

All R/o. Varvandi, Tq. Rahuri
Dist. Ahmednagar.

APPLICANTS
(Orig.Accused)

VERSUS

The State of Maharashtra
Through the Police Station Officer
Rahuri Police Station
Dist. Ahmednagar.

RESPONDENT

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Mr.N.V.Gaware, Advocate for the applicants
Mr.S.B.Joshi, APP for respondent – State.

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**CORAM: S.S.SHINDE &
SANGITRAO S.PATIL,JJ.**

Reserved on : 25.10.2016
Pronounced on: 27.10.2016

ORDER: (Per S.S.Shinde, J.):

1. Heard the learned counsel appearing for the appellants and the learned APP appearing for the respondent – State.

2. The learned counsel appearing for the appellants submit that the prosecution case rests upon the circumstantial evidence. The trial Court has not properly appreciated that there is no chain of circumstance which would lead to hypothesis that the applicants are responsible for the death of Ganpat. It is further submitted that the evidence of the prosecution witnesses suffers from improvements, omissions and contradictions and the same deserves to be discarded. He further invites our attention to the grounds taken in the application and submits that the appellants deserve to be released on bail.

3. On the other hand, the learned APP

appearing for the respondent – State submits that the appellants were not on bail during the trial. The trial Court has properly considered the entire evidence brought on record and found that the prosecution has established each circumstance firmly and found chain of circumstance is complete which leads to the only hypothesis of guilt of the appellants.

4. We have heard the learned counsel appearing for the appellants and the learned APP appearing for the respondent – State. With their able assistance, perused the evidence of the prosecution witnesses and also other evidence and the findings recorded by the trial Court. Upon careful perusal of the evidence of the prosecution witnesses, there is evidence of Subhash (PW-4), who stated that in front of the office of Hindustan Agro Co-operative Company Ltd., he saw accused no.1 Firoj, accused no. 3 Raju

and accused no.4 Babasaheb. They were discussing with each other and there was rope in the hands of Firoj. While passing through these persons from close distance, accused no.1 Firoj looked at this witness with anger. Rajkumar (PW-8) in his evidence has also stated the presence of accused nos.1, 3 and 4 on the date of incident in his Hotel and they left the Hotel on that day. There are also witnesses, who have deposed that the accused persons were seen in front of the house of Ganpat on the night of the incident. It is not desirable to assign the detail reasons on the basis of evidence, since the appeal filed by the appellants is pending. Suffice it to say that *prima facie*, the findings recorded by the trial Court are sustainable and appear to be in consonance with the evidence brought on record. No case is made out for grant of bail. Hence, the application for bail stands rejected.

5. The Registry of this Court shall send original record and proceedings to the Registry of Sessions Judge, Ahmednagar. Upon receiving the original record and proceedings by the Registry of the Sessions Judge, Ahmednagar, the Registry of concerned Court shall prepare the paper book and send it back along with original record and proceedings, as expeditiously as possible, and preferably within three months from receipt of the original record and proceedings.

6. After receiving the paper book and the original record and proceedings, liberty to mention for early hearing of appeal.

Sd/-
[**SANGITRAO S.PATIL**]
JUDGE

Sd/-
[**S.S.SHINDE**]
JUDGE