

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

CRIMINAL APPLICATION NO. 2309 OF 2016

1. Mohammad Amiroddin
s/o Mohd. Gausuddin,
Age: 70 years, Occ: Labour,
Kadradabad Plot, Ashraf Corner,
Parbhani.
2. Akbaruddin s/o Mohd. Amiroddin,
Age: 38 years, Occ: & R/o. As above. ...Applicants

versus

The State of Maharashtra
through Investigating Officer,
New Mondha Police Station,
Parbhani. ...Respondent

WITH

**CRIMINAL APPLICATION NO. 2575 OF 2016
IN
CRIMINAL APPLICATION NO. 2309 OF 2016**

Khizer s/o Masiuddin,
Age: 19 years, Occ: Agri.,
R/o. Saibaba Nagar, Wangi Road,
Parbhani, Dist. Parbhani. ...Applicant

versus

Mohammad Amiroddin
s/o Mohd. Gausuddin & ors. ...Respondents

.....
Mr. N.B. Khandare, Advocate for applicants
Mr. S.D. Ghayal, A.P.P. for respondent/State
Mr. M.M. Choudhari, Advocate to assist A.P.P.
.....

CORAM : N.W. SAMBRE, J.

DATE : 27th JUNE, 2016

ORAL ORDER :

For the reasons stated in Criminal Application No. 2575 of 2016 seeking permission to assist prosecution, same stands allowed.

2. The applicants are seeking regular bail in Crime No. 279 of 2015 registered with New Mondha Police Station, District Parbhani, for an offence punishable under Sections 302, 307, 323, 504, read with Section 34 of the Indian Penal Code and under Section 4/25 of the Arms Act.

3. The prosecution story is that the present applicants assaulted the complainant and his family members resulting into death of complainant's brother.

4. While trying to make out case for grant of bail, learned Counsel for the applicants would urge that applicant No.1 is aged about 70 years and has serious ailments, which require him to undergo surgery. He would then submit that there are no criminal antecedents and charge sheet is already filed and as such, further detention is not necessary. According to him, role attributed to applicant No.2 is that assaulting by fists and kick blows and for the said purpose, he would rely upon the statement of victim Masiyoddin

and the complainant.

5. Learned A.P.P., who is assisted by learned Counsel for the complainant, would submit that there are eye witnesses to the incident and applicant's care can be taken by jail administration for providing him treatment in Government hospital. He would then submit that role attributed to applicant No. 2 is that of by caught holding of Masiyoddin and thereafter other accused slapped him, hence applicant No. 2 is not required to be released.

6. Having bestowed my thought to the submissions made, it is required to be noted that the investigation in the matter is complete and charge sheet is already filed. There are no criminal antecedents brought to the notice of this Court by either of the parties.

7. From the papers as are submitted by jail authorities and investigating agency pursuant to the order of this Court, it depicts that the applicant No.1 who is aged about 70 years, senior citizen, is suffering from various ailments which are mostly age related. The record depicts that for the said purpose, applicant No.1 was shifted to Parbhani jail and thereafter Doctor has opined that he should be administered treatment from Aurangabad. The said record speaks

that applicant No.1, senior citizen, is required proper medical care and attention.

8. The role attributed to applicant No. 2 is participation in the crime in question by using fists and kick blows.

9. In the above referred back ground, in my opinion, the applicants are entitled to be released on bail. Hence, the following order:-

(i) The applicants are released on bail, in connection with Crime No. 279 of 2015 registered with New Mondha Police Station, District Parbhani, for an offence punishable under Sections 302, 307, 323, 504, read with Section 34 of the Indian Penal Code and under Section 4/25 of the Arms Act, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount, by each of them.

(ii) The applicants shall not enter the jurisdiction of concerned police station till trial is over.

(iii) If the condition is jumped, the prosecution will be at liberty to approach straightway this Court for cancellation of bail.

10. Criminal Application No. 2309 of 2016 stands allowed in above terms.

[N.W. SAMBRE, J.]

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