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

CRIMINAL APPLICATION NO.3566 OF 2016

1. Sayeed Khan s/o Dilawar Khan
(Pathan),
Age : 30 yrs., Occ. Service,
R/o Gadejalgaon, Tq. And
Dist. Aurangabad

2. Shoeb s/o Dilawar Pathan,
Age : 26 yrs., Occ. Agril.,
R/o Gadejalgaon, Tq. & Dist.
Aurangabad

..APPLICANTS

VERSUS

The State of Maharashtra,
Through Police Station,
Karmad, Tq. and Dist. Aurangabad

..RESPONDENT

**WITH
CRIMINAL APPLICATION NO.3639 OF 2016**

Jabbar s/o Anwar Khan (Pathan),
Age : 40 yrs., Occ. Labour,
R/o Gadejalgaon, Tq. And
Dist. Aurangabad

..APPLICANT

VERSUS

The State of Maharashtra,
Through Police Station,
Karmad, Tq. and Dist. Aurangabad

..RESPONDENT

Mr C.R. Thorat, Advocate for applicants;
Mr S.Y. Mahajan, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 2nd August, 2016

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ORAL ORDER :

By these applications under section 439 of the Code of Criminal Procedure, the applicants seek their release on bail, in connection with C.R. No.82 of 2016, registered with police station, Karmad, Tq. & Dist. Aurangabad, for offences punishable under sections 302, 307, 143, 147, 148, 149, 323, 504, 506 and 120-B of the Indian Penal Code.

2. As per the prosecution story, the allegations against the applicants are that they formed an unlawful assembly and have murdered the father of the complainant Abdul Haq Shaikh Kamal Patel.

3. Before the said incident, in the morning, it is claimed that the applicants accompanied by main accused had threatened the complainant.

4. The applicants were arrested on 17th May, 2016.

5. In the light of above, learned Counsel appearing on behalf of the applicants submits that the stick alleged to have been used in commission of crime by one of the accused is already recovered and applicants further custodial detention is not required.

6. Learned Public Prosecutor opposed the application as the investigation is in progress and charge-sheet is yet to be filed. He expresses likelihood of threats, in the event the applicants are released on bail.

7. In my opinion, having regard to the nature of allegations against the applicants, particularly as regards their participation in the crime in question, at the most the offence that could be constituted against them, could be considered to be one punishable under section 326 of the Indian Penal Code. It is then noted that the other two accused are claimed to have used stones in commission of the crime in question. The cause of

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death is head injury.

8. There is also use of sword in the commission of crime by the other accused.

9. In my opinion, as the applicants' custodial interrogation is already over and there are no criminal antecedents, no fruitful purpose will be served in detaining them more.

10. In view thereof, in my opinion, it will be appropriate to order release of the applicants on bail. I, therefore, pass following order :-

The applicants be released on bail, in connection with C.R. No.82 of 2016, registered with police station, Karmad, Tq. & Dist. Aurangabad, for offences punishable under sections 302, 307, 143, 147, 148, 149, 323, 504, 506 and 120-B of the Indian Penal Code, on each of them furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

The applicants shall remain outside the jurisdiction of the concerned police station till filing of the charge-sheet.

The applicants shall not tamper with prosecution evidence or influence the witnesses.

Criminal Applications stand allowed in above terms.

(N.W. SAMBRE, J.)

amj