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

CRIMINAL APPLICATION NO.3979 OF 2016

1. Gaffar Ansari Manzoor Ahemad
Ansari,
Age: 33 years, Occ: Business,
R/o. Milan Nagar,
Near Gas Godown, Old Jalna.

2. Najerabi Shehenshah,
Age: 38 years, Occ: Household,
R/o. Sher Sawar Colony,
Near Totala Petrol Pump,
Jalna.

..APPLICANTS

VERSUS

The State of Maharashtra

..RESPONDENT

Mr Joydeep Chatterji, Advocate for applicant;
Mr S.Y. Mahajan, Addl. Public Prosecutor for
respondent

CORAM : N.W. SAMBRE, J.

DATE : 5th August, 2016

ORDER :

Mr. Chatterji, learned Counsel for the
applicants, upon instructions, does not want to
press the application for grant of bail for
applicant No. 1 Gaffar Ansari Manzoor Ahemad
Ansari. As such, the application on behalf of the

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said applicant stands dismissed, as not pressed.

2. So far as applicant No.2 Najerabi Shehenshah is concerned, it is the case of prosecution that Najerabi was married to one Shehenshah and thereafter developed illicit relations with Abdul Karim alias Babu Ansari. As a consequence, the deceased Shehenshah married to one another lady by name Yasmin, who happens to be the complainant in the crime in question.

3. It is the case of prosecution that the present applicants, particularly applicant No.1 along with other three accused formed unlawfully assembly and assaulted Shehenshah, resulting into his death.

4. Mr. Chatterji, learned Counsel for the applicant would urge that applicant No. 2 was arrested on 26th March, 2016 and she being a lady, her further detention is not necessary. He would then invite my attention to the statements of eye

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witnesses so as to submit that in fact applicant No. 2 has tried to stop other accused from assaulting deceased.

5. Learned A.P.P., while opposing the application for grant of bail submits that apart from dying declaration of deceased recorded on 22nd March, 2016 i.e. Shahenshah, there is enough material on record to connect the applicant to the crime in question. He would then urge that there are eye witnesses to the incident and prayed for rejection of the bail application.

6. Having bestowed my thought to the submissions made, it is to be noted that from the record, it could be inferred that applicant Najerabi has not actively participated in the crime in question. In fact, the statements of witnesses depict that the applicant Najerabi has tried to stop other accused from assaulting the deceased.

7. Apart from above, in my opinion, having

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regard to the material as is available, *prima facie* involvement of the applicant Najerabi so as to attribute motive of the crime punishable under Section 302 of the Indian Penal Code, appears to be improbable.

8. In view of above, applicant No. 2 Najerabi needs to be released on bail. Hence, the order:-

Applicant No. 2 Najerabi Shehenshah be released on bail, in connection with Crime No.142 of 2016, registered with Sadar Bazar police station, District Jalna, for the offences punishable under section 302, 325, 326, 504, 506, 143, 147, 149 read with Section 34 of the Indian Penal Code, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

9. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)