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

**CRIMINAL APPLICATION NO.5547 OF 2015
IN
CRIMINAL APPEAL NO.769 OF 2015**

Bhausahab Madhukar Gore .. Applicant

Versus

The State of Maharashtra .. Respondent

**WITH
CRIMINAL APPLICATION NO.5549 OF 2015
IN
CRIMINAL APPEAL NO.771 OF 2015**

Javed Gafur Shah .. Applicant

Versus

The State of Maharashtra .. Respondent

**WITH
CRIMINAL APPLICATION NO.6246 OF 2015
IN
CRIMINAL APPEAL NO.857 OF 2015**

Arbaj @ Mosin Kadir Shaikh .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.Joydeep Chatterji, Advocate for the applicants
Mr.S.G.Karlekar, APP for the respondent/ State

**CORAM : A.V.NIRGUDE &
INDIRA K. JAIN, JJ.**
DATED : 18.03.2016

P.C. :-

1. The applicants in these applications moved applications for bail. By following order we would dispose of all these three applications. These three applicants alongwith two others allegedly assaulted victim Balasaheb. On 25.07.2014 at about 9:15 p.m., it was alleged that they formed an unlawful assembly, object of which was to finish Balasaheb. All of them assaulted Balasaheb. Balasaheb died due to one stab injury on his chest.

2. The author of this stab injury according to the prosecution witness No.6 was accused Dastgir Gafur Shah and not the appellants/applicants before us. Witness No.6 gave some details of the incident. He stated that it was Dastgir Gafur Shah, who was armed with 'gupti' and was seen stabbing the victim. Others were either holding the victim or were seen kicking him. He also indicated that while appellant/applicant Bhausahab was holding the victim, Dastgir Gafur Shah was stabbing him. There is thus an indication that appellant/applicant Bhausahab

aided and abetted assault by Dastgir Gafur Shah with 'gupti'.

3. On the other hand, the prosecution evidence also indicates that all the assailants had common object of killing victim Balasaheb.

4. Learned A.P.P. asserted that no applicants should be released on bail because they are vicariously responsible for homicidal death.

5. We are, however, not convinced that this could be a case where bail to the applicants/appellants should be refused. Our reasons are as under:

. The incident took place at about 9:15 p.m. The place where they assaulted was took place, was not quite lit. The witness stated that he saw the incident in the headlight of his vehicle. Prosecution witness Nos.3 and 5 are not clear as to who assaulted and who used which weapon etc. Witness No.6 only gave details of the incident. The evidence thus is rather fragile. In any case the applicants were not responsible for causing stab injury to the victim, due to which he died ultimately.

6. We are, therefore, inclined to release the applicants on bail of Rs.25,000/- (Rupees Twenty Five Thousand) each with one surety in the like amount. The substantive sentences of the applicants is suspended. The bail bonds shall be given in the lower Court.

7. Hamdast is permitted.

8. The Criminal Applications are accordingly disposed of.

[INDIRA K. JAIN, J.]

[A.V. NIRGUDE, J.]