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

CRIMINAL APPLICATION NO.5965 OF 2016

1. Arbaj Beg Altaf Beg,
Age: 19 years, Occ: Labour,
2. Azahar Shaikh Mohammad Ali
@ Shaikh Azharuddin Mohammad
Hanif, Age: 18 years,
Occ: Labour,
3. Shaikh Rashid Shaikh Bashir,
Age: 37 years, Occ: Labour,
4. Mohasin Mohamood Shaikh,
Age: 18 years, Occ: Labour,
5. Irfan Aslam Beg,
Age: 27 years, Occ: Labour,
6. Avesh Sharif Beg,
Age: 19 years, Occ: Labour,

All R/o. Shirpur, Tq. Shirpur,
Dist. Dhule

..APPLICANTS

VERSUS

The State of Maharashtra

..RESPONDENT

Mr Afzal Husain M. Vakil, Advocate for applicants;
Mr V.M. Kagne, Add. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 17th NOVEMBER, 2016

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ORAL ORDER :

Leave granted to correct the cause title as well as the prayer clause. Amendment be carried out forthwith.

2. The applicants herein seek release on bail under Section 439 of the Code of Criminal Procedure pursuant to their arrest in view of Crime No. 228 of 2016 registered at Shirpur City Police Station, District Dhule for offences punishable under Sections 143, 147, 148, 149, 395, 452, 338, 323 and 427 of the Indian Penal Code.

3. On 21st August, 2016 the report was lodged by one Bharatibai stating therein that present applicants along with 13 to 14 other persons created a crowd. The complainant, her mother and husband came there, on which point of time, they were beaten by the accused persons and her mother also lost gold ornaments. The offence came to be registered against the present applicants and other accused. The applicants have been arrested on 21st

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August, 2016.

4. It is submitted by the learned Counsel on behalf of the applicants that on plain reading of the first information report, no overt act has been attributed against the applicants. The injuries caused to the complainant are by some other accused. It is further submitted by referring to the application submitted by the complainant dated 1st October, 2016 that the missing gold ornament has been since found by the complainant. It is therefore, urged that there is no reason whatsoever to continue further detention of the applicants.

5. The application is opposed by the learned Additional Public Prosecutor on the ground that involvement of the present applicants is evident from the first information report. It is further submitted that the statements of the witnesses have been recorded indicating the presence of the applicants.

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6. Perused the case papers. The first information report does not indicate any overt act on the part of present applicants. The question of tracing out any stolen property does not survive in view of the affidavit of the complainant dated 1st October, 2016. Considering the nature of complaint that has been lodged, I do not find that further detention of the applicants is warranted prior to the trial.

7. Accordingly, following order is passed :-

(i) The applicants be released on bail, with regard to their arrest in connection with Crime No. 228 of 2016 registered at Shirpur City Police Station, District Dhule for offences punishable under Sections 143, 147, 148, 149, 395, 452, 338, 323 and 427 of the Indian Penal Code., on furnishing P.R. bond of Rs.15,000/-each, with one surety in the like amount.

(ii) The applicants shall not take any steps to

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tamper with the material collected by the prosecution.

(iii) The applicants shall attend the concerned police station as and when directed by the Investigating Officer.

8. Criminal Application is allowed on above terms and disposed of.

(A.S. CHANDURKAR, J.)

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