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

CRIMINAL APPLICATION NO. 6225 OF 2016

1. Shankar s/o Maroti Gudmalwar,
Age: 24 years, Occ: Labour,
R/o. Vishnunagar, Nanded,
Tq. & Dist. Nanded.
2. Gajanan s/o Govind Bhong,
Age: 21 years, Occ: Education,
R/o. Gokulnagar, Nanded,
Tq. & Dist. Nanded.
3. Nivrutti s/o Nagorao Taru,
Age: 29 years, Occ: Labour,
R/o. Pangi, Tq. & Dist. Nanded. ..APPLICANTS

VERSUS

The State of Maharashtra,
Through Police Station, Ardhapur,
Tq. Ardhapur, Dist. Nanded. ..RESPONDENT

Mr R.S. Deshmukh, Advocate h/f Mr S.B. Ghatol
Patil, Advocate for applicant;
Mr A.D. Namde, Additional Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 7th DECEMBER, 2016

ORAL ORDER :

Present applicants seek their release
pursuant to their arrest in connection with Crime

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No. 110 of 2016 registered at Ardhapur Police Station, Taluka Ardhapur, District Nanded for the offences punishable under Sections 302, 364, 201, 120-B of the Indian Penal Code.

2. As per the first information report dated 7th June, 2016, it was stated that the group of the informant and the group of the accused persons had some differences with regard to the Grampanchayat elections. The husband of the informant had opposed the accused No.1 in the said elections. On 7th June, 2016 the dead body of the husband of the informant was found. On that basis, the aforesaid offence came to be registered.

3. It is submitted on behalf of the applicants by their learned Counsel that the applicants had not been named in the first information report and only on the basis of the statement of other co-accused, they have been arrested. It is submitted that the recovery at the instance of the applicants is plastic bag, shirt

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and handkerchief. It is submitted that the statement of one Bhagwan Rajegore is sought to be relied upon but said person was not acquainted with the present applicants nor any test identification parade was conducted. Reference is made to the order passed on the bail application of other co-accused and it is submitted that in the letter dated 25th March, 2013 issued to the Superintendent of Police the names of the applicants do not figure. It is, therefore, submitted that as the entire investigation is complete and the charge sheet has been filed on 3rd September, 2016, the applicants deserve to be released on bail.

4. The application is opposed by the learned Additional Public Prosecutor by relying upon the police papers. It is submitted that in view of the recovery is made from the applicants, their role in the crime is evident. The call detail records indicate the presence of the accused in the village. The statement of Bhagwan indicates the presence of three unknown persons with other

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accused and on that basis, the present applicants have been implicated and hence, considering the gravity of the offence, the application deserves to be rejected.

5. Perused the first information report as well as the charge sheet. The names of the present applicants do not figure in the first information report and there is reference of three unknown persons. The statement of one Bhagwan Rajegore indicates that the accused No.4 and three unknown persons were trying to take deceased forcibly away. On the basis of statement of Bhagwan Rajegore they have been implicated. Considering the fact that there is no eye witness nor has any test identification parade been conducted to identify the present applicants, I find that only on the basis of seizure of plastic bag, shirt and handkerchief of the applicants, they have been so implicated. The investigation is complete and the charge sheet has also been filed. In the order passed by this Court in Criminal Application No.

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6122 of 2016, the applicant therein was named in the letter issued by the deceased to the Superintendent of Police seeking police protection. There was no recovery from the said applicant. In the present case, the names of the applicant do not figure in the said letter seeking police protection. Similarly, other accused Panjab and Atmaram stand released by the order passed by learned Sessions Judge.

6. In view of aforesaid, the following order is passed : -

: O R D E R :

(1) The applicants are directed to be released on bail, in connection with Crime No. 110 of 2016 registered at Ardhapur Police Station, Taluka Ardhapur, District Nanded for the offences punishable under Sections 302, 364, 201, 120-B of the Indian Penal Code, on furnishing P.R. bond of Rs.15,000/- each, with one surety in the like amount.

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(2) They shall not take any steps to tamper with the prosecution witnesses.

(3) They shall attend the Court of learned Sessions Judge, Nanded as and when directed by the concerned Court and shall co-operate to the said Court during the trial.

7. The aforesaid observations are made only for the purpose of deciding present bail application.

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

(A.S. CHANDURKAR, J.)

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