

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

CRIMINAL APPLICATION NO. 292 OF 2017

1. Balekha @ Balan s/o
Bashirkhan Pathan,
Age 30 years, Occu.Labour
 2. Aarfath s/o Ayyub Pathan,
Age 25 years, Occu. Labour
- Both r/o Dawangaon
Taluka Udgir, District Latur
- ..Applicants
- Versus
- The State of Maharashtra
through Udgir City Police Station
- ..Respondent

Mr T.M. Venjane, Advocate for applicants
Mr A.D. Namde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 9th February 2017

PER COURT

1. The application at the behest of applicant no.1 - Balekha alias Balan Bashirkhan Pathan is dismissed as withdrawn, as prayed for by the learned Counsel for the applicants.
2. So far as applicant No.2 Aarfath is concerned, he is seeking regular bail in C.R. No.48/2015, registered at Udgir City Police Station, District Latur, for the offences punishable under Sections 302, 307, 326, 143, 144, 147, 148, 149, 109, 506, 324 of the Indian Penal Code and under Section 135 of the Bombay Police Act.
3. The applicant came to be arrested on 9th April 2015 in the aforesaid crime. The attribution that he along with co-accused Balekha has assaulted the deceased resulting into his death.

4. There is no material on record so as to infer the presence of the applicant no.2 on the scene of offence depicting direct involvement of commission of crime. No weapon or any incriminating material is recovered from the custody of applicant no.2.
5. Though witness Shaikh Amer speaks of presence of two persons, however, there is no identification parade. The other witness Tukaram, a police constable speaks of hearsay story that applicants are involved in commission of crime in question.
6. As there is no material to prima facie infer that applicant no.2 - Aarfat is involved in the crime in question, he be released on bail in C.R. No.48/2015, registered at Udgir City Police Station, District Latur, for the offences punishable under Sections 302, 307, 326, 143, 144, 147, 148, 149, 109, 506, 324 of the Indian Penal Code and under Section 135 of the Bombay Police Act, upon furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.
7. The applicant no.2 shall not influence the prosecution witnesses or shall not tamper with the prosecution evidence.
8. Two consecutive absence of applicant no. 2 in the trial will entail cancellation of bail.
9. Criminal Application stands disposed of accordingly.

(N.W. SAMBRE, J.)