

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

CRIMINAL APPLICATION NO.3286 OF 2017

Subhash Namdeo Yamalwad ... **Applicant**
Age 27 years, Occu: Labourer
R/o Golegaon, Tq. Umari,
Dist. Nanded

VERSUS

The State of Maharashtra ... **Respondent**
Through the Police Inspector,
Police Station Umari, Dist.
Nanded

WITH

Mr. Umakant B. Deshmukh, Advocate for the applicant
Mr. A. R. Borulkar, APP for the State.

WITH

CRIMINAL APPLICATION NO.2643 OF 2017

Balaji s/o Muttelu Yamalwad ... **Applicant**
Age 28 years, Occu: Agriculture
R/o Golegaon, Tq. Umari,
Dist. Nanded

VERSUS

The State of Maharashtra ... **Respondent**
Through the Police Inspector,
Police Station Umari, Dist.
Nanded

WITH

Mr. Rajendra S. Deshmukh , Advocate for the applicant
Mr. A. R. Borulkar, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 1st August, 2017

ORDER:

1. Heard Mr. Rajendra Deshmukh and Mr. Umakant Deshmukh, learned counsel for the applicants and Mr. Borulkar, learned APP for the State in both the

applications.

2. These applications are filed under section 439 of the Criminal Procedure Code for bail in connection with Crime No. 75/2015, registered with Umari Police Station, Dist. Nanded for the offences punishable under Sections 302, 201 read with section 34 of the Indian Penal Code.

3. It is the case of the prosecution that the applicants, alongwith other accused persons have committed murder of deceased Ganpat.

4. Mr. Deshmukh, the learned counsel appearing for the applicants submits that the main accused Maruti Yamalwad was released on bail by this court by order dated 18.01.2017 in Criminal Application No. 7053/2016 and another accused persons namely Ganesh and Suresh Yamalwad were released on bail by this Court by order dated 6th June, 2017 in Criminal Application No. 2156. Now, Mr. Deshmukh wants bail of the present applicants on the ground of parity.

5. Learned APP has objected to the prayer for bail on the ground that bail application of the applicants accused Balaji was rejected on merit on 15.10.2016.

6. Release of one of the main accused during the pendency of the trial is change of circumstance and on the basis that co-accused against whom similar allegations or lesser allegations are levelled, filed application for bail. Such bail application was moved before the learned Sessions Judge. However, it was rejected. Hence the present application.

7. Main accused Maruti Yamalwad was released on bail by this Court by observing as follows:

"Prima facie, upon perusal of the said injuries, it could be inferred that those injuries are caused because of accident on railway track either due to fall from train or voluntarily jumping on the track."

8. Other accused persons namely Ganesh and Suresh Yamalwad were released on bail on having similar allegation against them.

9. In view of the above, I am of the opinion that the applicants are entitled for bail. Hence following order:

O R D E R

i. Both the applicants shall be released on bail on

their furnishing P. R. bond of Rs.25,000/-(Rupees twenty five thousand)each, with one solvent surety of like amount.

ii. The applicants shall neither influence the prosecution witnesses nor tamper with the prosecution evidence.

10. Criminal applications are disposed of.

(K. L. WADANE, J.)

JPC