IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2516 OF 2018

Muajjam Hussain Dhanse ….Applicant
V/s.
The State of Maharashtra ….Respondent

WITH
BAIL APPLICATION NO. 2517 OF 2018

Shoab Muajjam Dhanse & Anr. ….Applicants
V/s.
The State of Maharashtra ….Respondent

WITH
BAIL APPLICATION NO. 2532 OF 2018

Parvej Hussain Dhanse ….Applicant
V/s.
The State of Maharashtra ….Respondent

Mr. Rajendra Sorankar for the applicants.
Mr. Rajan Salvi, APP for the State in BA 2517/2018.
Mr. S.S. Pednekar, APP for the State in BA 2516/2018.
Mr. S.R. Agarkar, APP for the State in BA 2532/2018.
Mr. Amin Solkar, intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 01st OCTOBER, 2018.

P.C.:

. These are the applications filed under Section 439 of Criminal Procedure Code by the aforesaid applicants, who have been arrested in

C.R.No.29/2018 registered with MIDC Police Station at Mahad, District Raigad for offences punishable under sections 143, 147, 148, 302, 323, 504 r/w. 149 of the Indian Penal Code.

2. Heard Mr. Rajendra Sorankar, learned counsel for the applicants, Mr. Rajan Salvi, Mr. S.S. Pednekar, Mr. S.R. Agarkar, learned APPs for the State and Mr. Amin Solkar, learned Intervenor. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the first information report lodged by one Samir Mohiddin Hurjuk, son of the deceased Mohiddin Hurjuk. The first information report prima facie reveals that on 01.05.2018 at about 10:00 p.m. deceased Mohiddin had gone to the house of Farukh, who was ailing. It is alleged that the deceased was in the courtyard of said Farukh and was enquiring about his health, at which time these three Applicants and others assembled in the courtyard and started abusing and assaulting said Mohiddin. The first informant had stated that the Applicants and the others assaulted him and his father Mohiddin by kicks and blows. It is also alleged that co-accused Kamal pelted a stone at his father and the other

co-accused Taufik strangulated him. Said Mohiddin expired as a result of the said incident.

4. The post mortem report *prima facie* reveals that the said Mohiddin had sustained some abrasions and contusions. None of the injuries were of grievous nature. The Medical Officer had opined that the death of Mohiddin was due to *"intracranial bleeding secondary to caridopulmonary arrest secondary to assault."*

5. The records reveal that by letter dated 12/05/2018, the Investigation Officer had sought further opinion from the Medical Officer as regards the date and time of death of Mohiddin and further whether the injuries found on the body of the deceased could have been caused by kicks and blows. The Medical Officer has opined that the time of death was about 11:00 p.m. The Medical Officer has further certified that the injuries which were noticed on the body of the deceased could have been caused by the wooden sticks.

6. The material on record does not *prima facie* indicates that these applicants were involved in inflicting any injuries by means of sticks. The allegations against these applicants are that they had assaulted the

deceased by kicks and blows. The material on record also indicate that one of the applicants i.e. Muajjam Hussain Dhanse had himself taken the deceased to the hospital. As regards the applicability of vicarious liability as contemplated under section 149 of the Indian Penal Code, the same will have to be decided on merits of the matter.

7. Considering the fact that the investigation is completed and charge sheet has already been filed, in my considered view, the presence of the applicants is no longer required in custody. Furthermore, the co-accused Smt. Mubarak Ajgar Dhanse and Smt. Fatima Zulfikar Antule against whom similar allegations are levelled, have been granted bail by this Court on 24/09/2018.

8. Considering the above facts and circumstances, in my considered view, this is a fit case for grant of bail. Hence, Bail Application Nos.2516/2018, 2517/2018 and 2532/2018 are allowed on the following terms and conditions :-

(a) The applicants who have been arrested in C.R.No.29/2018 registered with MIDC Police Station at Mahad, District Raigad are ordered to be released on bail on furnishing bail bonds of Rs.50,000/-

(Rupees Fifty Thousand) each with one or two solvent sureties in the like amount to the satisfaction of the concerned Court.

(b) The applicants shall furnish their permanent address and temporary address, if any, and their contact details to the concerned Court.

(c) The applicants shall not change their residential address without prior intimation to the concerned Court and the Investigation Officer.

(d) The applicants shall not interfere with the witnesses in any manner and shall not tamper with the evidence.

(SMT. ANUJA PRABHUDESSAI, J.)