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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO. 2579 OF 2018**

|                                 |                 |
|---------------------------------|-----------------|
| 1. Shaikh Raees Shaikh Rasheed  | .....Applicants |
| 2. Shaikh Anees Shaikh Rasheed  |                 |
| 3. Shaikh Lateef Shaikh Rasheed |                 |

V/s.

|                                      |                  |
|--------------------------------------|------------------|
| The State of Maharashtra and another | .....Respondents |
|--------------------------------------|------------------|

Mr. N. R. Bubna for the applicants  
Mr. Mahendra N. Sandhyanshiv for respondent no. 2  
Mr. A. A. Palkar APP for the State

**CORAM : NITIN W. SAMBRE, J.**

**DATE : FEBRUARY 25, 2019.**

**P.C.**

In Crime No. I-35/2018 registered with Pawarwadi Police Station, Dist. Nashik for offence punishable under Sections 302, 323 r/w 34 of the Indian Penal Code, applicants are seeking regular bail.

2 All these applicants are real brothers of each other and cousin brothers of one Heena who was married to deceased Mohammed. The complainant, brother of Mohammed alleged that Heena and

Mohammed Ayub had matrimonial discord out of same, all these three applicants who are brothers-in-law of deceased alleged to have eliminated Mohammed Ayub. Applicants were arrested on 10/05/2018 and are charge-sheeted.

3 The entire case is based on circumstantial evidence. Investigating agency has relied on following circumstances:

- (a) The deceased has by signals/signs narrated to witness Dinesh, a constable in SRPF that three persons have assaulted him.*
- (b) The deceased has also, by signs, similarly narrated to complainant as regards assault by present applicants.*
- (c) In a mobile, while taking deceased from Malegaon to Dhule Civil Hospital, the incident of identifying the accused by signals by the deceased was recorded and copy thereof in a DVD is seized.*

4 So far as the aforesaid evidence is concerned, it is really difficult to accept the same so as to *prima facie* infer the involvement of the applicants in the crime in question.

5 The throat of the deceased claimed to have been slit by giving

him three sharp injuries and as such, he was unable to speak. As such, by signals, the deceased alleged to have identified present applicants. The version of the prosecution to that extent, cannot be relied upon for ordering further detention of applicants particularly when it is difficult to infer that deceased by signalling was intending to name the applicants as responsible for alleged assault. Hence, following order:

*(A) The applicants be released on bail in Crime No. I-35/2018 registered with Pawarwadi Police Station, Dist. Nashik, applicants be released on bail on executing P.R. bond in the sum of Rs. 25,000/- each with one or more sureties in the like amount.*

*(B) Applicants shall not influence witnesses or tamper with evidence.*

6 Application stands disposed of.

**[NITIN W. SAMBRE, J.]**