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

BAIL APPLICATION NO.205 OF 2025

1. Azmat Khan @ Ajju Daulat Khan,
Age: 32 years, Occu.: Nil,
R/o. Plot No. 42, Heena Nagar,
Chikalthana, Aurangabad

2. Shaikh Arfat Shaikh Jaan Mohammad,
Age: 19 years, Occu.: Student,
R/o. Opp. Jali Dargah Kiradpura,
Aurangabad

... Applicants

Versus

The State of Maharashtra
(Through MIDC Police CIDCO
Police Station, Aurangabad)

... Respondent

**WITH
BAIL APPLICATION NO.127 OF 2025**

Syed Shoeb S/o. Sayyed Shafik,
Age: 19 years, Occu.: Labour
R/o. Gut No.72, Hina Nagar,
Chikalthana, Aurangabad (A-3).

... Applicants

Versus

The State of Maharashtra
(Through MIDC Police CIDCO
Police Station, Aurangabad)

... Respondent

**WITH
CRIMINAL APPLICATION NO.1036 OF 2025 IN BA/205/2025**

Mukhtar Gaffar Sayyed,
Age: 38 years, Occu.: Business,
R/o. Plot No.1, Near Shadab Masjid,
Hina Nagar, Chikalthana,
Chhatrapati Sambhajinagar.

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Versus

1. Azmat Khan @ Aiju Daulat Khan,
Age: 32 years, Occu.: Nil,
R/o. Plot No. 42, Heena Nagar,
Chikalthana, Aurangabad

2. Shaikh Arfat Shaikh Jaan Mohammad,
Age: 19 years, Occu.: Student,
R/o. Opp. Jali Dargah Kiradpura,
Aurangabad

3. The State of Maharashtra
Through Officer In-charge,
MIDC CIDCO Police Station,
Chhatrapati Sambhajnagar

... Respondents

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Mr. Nilesh S. Ghanekar, Advocate for Applicants in
BA/205/2025

Mr. Shaikh Joyeb I., Advocate for Applicant in BA/127/2025

Mr. Parth Salunke, Advocate for Informant in Cri.Appln.
No.1036/2025 in BA/205/2025

Mr. V.M. Jaware, APP for State

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 02 APRIL 2025

PRONOUNCED ON : 04 APRIL 2025

PER COURT :-

1. Applicants seek enlargement on regular bail on account of their arrest in Crime No.24 of 2024, registered with MIDC CIDCO Police Station, Aurangabad, District Aurangabad for offences punishable under Sections 302, 326, 323 read with Section 34 of the Indian Penal Code (IPC).

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2. Criminal Application No.1036 of 2025 filed by informant for intervention seeking permission to assist the public prosecutor is allowed.

3. Learned counsel for applicant in BA/205/2025 pointed out that, applicants are arrested in above crime on 22.01.2024 regarding occurrence, which had taken place on 13.01.2024. He pointed out that, applicants are behind the bars since more than one year. That, the case is based on circumstantial evidence. That, there was said to be some quarrel, but one month prior to the incident in question. That, there was motive. That, previous dispute was already resolved. That, learned counsel pointed out that present applicants are nephews of Ramjan Khan. He further submitted that prosecution story has come under the shadow of doubt, because history given in MLC details is distinct than statements of witnesses, which are recorded at later point of time. He pointed out that precisely considering the same this Court had granted bail to one of the accused. He pointed out that, in the MLC, occurrence is reported regarding deceased suffered head injury on account of fall from Rickshaw, but, subsequently version has been changed. Learned counsel pointed out that, even doctor gave explanation about alleged

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history in MLC papers. He pointed out that initially, the deceased was taken to the Sub Hospital in Chikalthana, where the history reported that the deceased had fallen from a rickshaw. He pointed out that further deceased was taken to MGM Hospital and then to Ghati Hosptial. He further submitted that statements of so called Mirza Aziz Baig given under Section 161 is contrary to his statement given under Section 164 of the Cr.P.C. Lastly, he submitted that, injuries suffered apart from head injury are contusion and abrasion. According to him, now investigation is over and charge-sheet having been filed on 03.04.2024 itself, learned counsel questions further custodyof the applicants. According to him, there are no immediate prospects of matter going for trial, as charge is yet to be framed. For all above reasons, learned counsel urges for grant of bail.

4. Learned counsel for applicant in BA/127/2025 also adopts above submissions ,and he too prays for grant of bail on same grounds.

5. Learned APP strongly opposed on the ground that, serious offence of murder is committed. That, there is use of wooden log. That, there are eyewitness account. Learned APP submitted that there are interpolation and tampering with the MLC record.

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That, there is recovery of wooden log under Section 27 of the Evidence Act. That, deceased died due to head injury. He further submitted that, there is audio conversation between deceased and his brother, and transcript of the same is part of the charge-sheet, and therefore, offence being serious, learned APP has opposed the bail application.

6. Learned counsel for informant also strongly opposed the bail application on the ground that, offence of murder is committed. That, there are eyewitness account. He also submitted that there is possibility of misuse of liberty.

7. Heard. Perused the papers. FIR is at the instance of Mukhtar Gaffar Sayyed. He reported to the police that, his elder brother Sayyed Lal Sayyed Gaffar runs a electric shop. That, on 31.01.2024 around 08: 57 p.m., he got a call from his such brother informing that Ajmat Khan @ Ajju Dault Khan and Ramjan Khan Daulat Khan both along with their unnamed nephews assaulted him by wooden log on account of pigeon. His brother informed that he was assaulted on head and back. Therefore, he and his father went there. He claims that Ajij Mirza informed that he saw the occurrence, and thereafter, he learnt that his brother was taken in mini Ghati, Chikalthana,

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where he found his brother unconscious. On above information, report has been lodged.

8. applicants are said to be arrested on 22.01.2024 and 18.01.2024 respectively. Present applications are mainly on the ground of parity, as main accused assailant namely Ramjan Khan Daulat Khan, from whom there is said to be recovery of wooden log is already beneficiary of bail vide order dated 09.08.2024 in Bail Application No.1320 of 2024. Present applicants are shown as accused Nos.3, 4 and 5.

9. Learned APP and learned counsel for informant opposed on the ground that serious offence is committed. Moreover, there is CCTV footage as well as telephonic conversation tape has been recorded. Visited the same in the charge-sheet. However, as stated above, though five persons are booked, there are allegations of use of wooden log and that too against Ramjan Khan Daulat Khan, who is already granted bail. Submission made by the learned counsel for applicants that, though charge-sheet is already filed in April 2024, matter is neither committed nor charge is framed, is not refuted or denied by learned APP.

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10. Taking the above facts into consideration, applicants succeed, particularly on the ground of parity. Hence, the following order :

ORDER

((i) Applications are allowed.

(ii) Applicants be released on bail in connection with in Crime No.24 of 2024, registered with MIDC CIDCO Police Station, Aurangabad, District Aurangabad on executing Personal Bond of Rs.50,000/- each with one surety each in the like amount on following conditions:

[a] The applicants shall not tamper prosecution evidence.

[b] The applicants shall attend the concerned police station as and when called by the Investigating Officer on written notice.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane