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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.49 OF 2015

Moh. Naushad Moh.Shahbuddin Siddique ... Applicant
V/s.
The State of Maharashtra ... Respondent

Ms.Leela Malu i/b Leela D. Malu & Associates, for the Applicant.

Ms.A.T.Javeri, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATED : 18th MARCH, 2015.

PC.

1. Heard learned counsel for the applicant and the learned APP for the Respondent – State.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.331 of 2013 registered with the Shivaji Nagar Police Station, Mumbai for the alleged offences punishable under Sections 302, 326, 324, 504, 506(2), 143, 147, 148, 149 of the Indian Penal Code.

3. The incident in question has taken place on 22nd October,

2013 at about 9.00 a.m. in the morning. It appears from the prosecution case, that the daughter of the complainant's sister Ashiya aged about 2 years banged and moved the tin partition, as a result of which Sharif Mulla went to the complainant's house, and asked her to take care of her child. It is alleged that there was altercation between the complainant and Sharif Mulla. Thereafter, Sharif Mulla allegedly brought a bamboo stick and assaulted the complainant on her head and on her hand. It is alleged that on hearing the cries of the complainant, the husband of the complainant Tabrez Khan, her sister Shabana and nephew Mustafa Fakir Mohammed came to the spot, to help the complainant. It is alleged that Sharif Mulla assaulted the husband of the complainant on his legs due to which his legs got fractured and so also Saddam Shaitan Mulla assaulted the complainant's husband with a bamboo stick and her nephew Mustafa Mohammad on his shoulder.

4. Learned Counsel for the Applicant contended that the deceased - Tabrez Khan, has not disclosed the name of the applicant as having assaulted him. According to the learned counsel, the only allegation as against the applicant, is that the applicant assaulted Rehana on her hand with a bamboo stick.

5. Learned APP opposed the bail application. She submitted that there are some eye witnesses who have specifically stated that the present applicant also assaulted the deceased - Tabrez Khan, with a bamboo stick.

6. Be that as it may. Perused the charge-sheet. A perusal of the statement of deceased - Tabrez Khan, shows that the deceased has not attributed any overt act to the present applicant. The deceased succumbed to his injuries on 25th October, 2013, i.e. after 3 days. As far as the injury sustained by Rehana, allegedly caused by the applicant, the same appears to be a simple injury.

7. Considering the manner in which the incident had occurred and the discrepancy in the statement of the deceased - Tabrez Khan, and the other eye – witnesses, with regard to the alleged role played by the applicant, the Applicant deserves to be enlarged on bail on the following terms and conditions ;

ORDER

- i) The Applicant be enlarged on bail on furnishing PR. Bond in the sum of Rs.15,000/- with one or

two sureties in the like amount ;

- ii) The Applicant shall attend the Shivaji Nagar Police Station, Mumbai once a fortnight i.e on 1st and 3rd Saturday of every month between 10.00 a.m. to 11.00 a.m., till the conclusion of the trial;
- iii) The Applicant shall give his present address and telephone number to the Shivaji Nagar Police Station, Mumbai as well as the Trial Court :
- iv) If there is change in the address, the Applicant shall inform the same to the Shivaji Nagar Police Station, Mumbai as well as the Trial Court ;
- v) The Applicant shall not tamper or attempt to influence any person concerned with the case ;
- vi) The Applicant shall co-operate in the conduct of the trial ;
- vii) It is made clear that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

8. The Application is allowed and disposed of in above terms.

9. The aforesaid observations are prima-facie, and the Trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. Parties to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J.)