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

BAIL APPLICATION NO.771 OF 2015

Udhav @Kalu Bhagwan Rathod	... Applicant
Vs	
The State of Maharashtra	... Respondent

**WITH
BAIL APPLICATION NO.869 OF 2015**

Vijay Fulsingh Rathod	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.Kuldeep Patil i/b Mr.P.S.Hagare, for the Applicant in Bail Application No.869 of 2015.

Mr.P.S.Hagare i/b Amar M. Kale, for the Applicant in Bail Application No.771 of 2015.

Mr.S.S.Pednekar, APP for the Respondent – State.

**CORAM : REVATI MOHITE DERE, J.
DATE : 31st AUGUST, 2015**

P.C. :

1. Heard the learned counsel for the Applicants and the learned APP for the Respondent-State.

2. By these applications, the applicants seek their enlargement on bail in connection with C.R.No.220 of 2012 registered with the Yavat Police Station, Pune, for the alleged offence punishable under Section 302 of the Indian Penal Code.

3. The incident in question has taken place on 9th October, 2012. A complaint was lodged by the applicant in Criminal Bail Application No.869 of 2015 with the Yavat Police Station, Pune as against unknown persons. The said applicant – Vijay (original complainant) and the deceased were friends. It is alleged by the complainant – Vijay, who was subsequently made an accused that he found the dead body of the deceased – Santosh Jadhav in a Truck which was standing near the Mastani Talav. He has alleged that when he saw the dead body there were injuries caused to the deceased on his face, throat and nose. The postmortem report reveals incised wound on the throat and the cause of the death is shown as 'death due to cardiac rupture due to stab injury'.

4. Learned Counsel for the Applicants submit that for the first time in 2014, the wife of the deceased, – Shobha Jadhav expressed suspicion on

the present applicants. Accordingly, the statement of the wife of the deceased was recorded on 28th November, 2014. In the said statement for the first time she has alleged that her husband had disclosed to her on 8th October, 2012, that the applicant - Vijay in Criminal Bail Application No.869 of 2015 was having an affair with the wife of the applicant - Udhav @Kalu in Criminal Bail Application No.771 of 2015. They submitted that according to the statement of Shobha Jadhav, her husband was going to disclose the said fact to the applicant – Udhav @Kalu Bhagwan Rathod. Pursuant to the said statement the present applicants came to be arrested on 23rd November, 2014. The learned counsel state that there is no recovery of any weapon at the instance of the present applicants except blood stained clothes which were allegedly recovered after almost two years.

5. Learned APP states that although the complaint was lodged by the applicant – Vijay Fulsingh Rathod on 9th October, 2012, later, pursuant to the statement of the wife of the deceased recorded on 28th November, 2014, the present applicants have been arrested.

6. Perused the charge-sheet. Although the incident is of 9th October,

2012, for which an FIR was lodged by the applicant – Vijay Fulsingh Rathod in Criminal Bail Application No.869 of 2015, it appears that after almost two years, the statement of the wife of the deceased was recorded, pursuant to which the applicants have been arrested. The entire prosecution case rests on circumstantial evidence. There is no recovery of any weapon at the instance of the applicants. The alleged recovery of blood stained clothes at the instance of the applicants after almost two years, and its evidentiary value, is a matter which will be considered by the Trial Court.

7. Considering the nature of allegations and the material on record as against the present applicants, the Applicants are enlarged on bail on the following terms and conditions :-

ORDER

- i) The Applicants are enlarged on bail on furnishing P.R.Bond in the sum of Rs.20,000/- each with one or two sureties in the like amount ;
- ii) The Applicants shall attend the Yavat Police Station, Pune, on the first Saturday of every month, between 10.00 a.m. to 11.00 a.m., for a period of one year ;

- iii) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Yavat Police Station, Pune ;
 - iv) The Applicants shall not tamper or attempt to influence the complainant or any persons concerned with the case;
 - v) The Applicants shall co-operate in the conduct of the trial.
8. The Applications are allowed and disposed of in above terms.
9. Needless to observe, that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.
10. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.