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

BAIL APPLICATION NO.888 OF 2015

Raj @Balla Mahabli Jaiswar	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.M.N.Sandhyanshiv, for the Applicant.

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

**CORAM : REVATI MOHITE DERE, J.
DATE : 03rd SEPTEMBER, 2015**

P.C. :

1. Heard the 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.104 of 2014 registered with the Chhavani Police Station, Malegaon, District – Nashik, for the alleged offence punishable under Section 302 r/w Section 34 of the Indian Penal Code.

3. The incident in question has taken place on 6th August, 2014 and the complainant is Jijabai Dagadu Sonwane, the sister of the deceased. The said FIR has been lodged as against the unknown persons. According to the prosecution, the deceased was assaulted by some unknown persons by throwing stone on his head and by throttling him.

4. Learned Counsel for the Applicant states that the applicant has not been named in the FIR inasmuch as, the FIR has been lodged as against the unknown persons. He submitted that in the supplementary statement of the complainant which was recorded on 12th August, 2014, the complainant has disclosed the name of the present applicant after being told about the same, by the police.

5. Learned APP submitted that there is recovery of clothes at the instance of the present applicant, however, till date the C.A Report is not received.

6. Perused the charge-sheet. Admittedly, it is a case of circumstantial evidence. There is no evidence of last seen of the present applicant with the

deceased. It also appears that the name of the present applicant has been disclosed by the police to the complainant, pursuant to which her supplementary statement came to be recorded on 12th August, 2014. The only circumstance is of recovery of clothes at his instance. According to the prosecution, there was a quarrel between the deceased, present applicant and the co-accused on account of a bottle of liquor. As the deceased refused to share the liquor bottle and stated that he will go to the police, it is alleged that the accused got enraged and assaulted the deceased. There are no eye witnesses who have alleged the said motive. Learned APP submitted that there is extra judicial confession made by the applicant to one Vicky Ramesh Ahire. Perused the said statement. It is not an extra judicial confession. In the said statement he has submitted that he was sitting with the present applicant and the co-accused and having alcohol ; that after some time he went to attend the nature's call ; and on his return back, he overheard both the accused talking to one another. The conversation which allegedly took place between the accused in no manner spells out anything regarding the death of the deceased.

7. Considering the nature of allegations and the material on record, the

Applicant is enlarged on bail on the following terms and conditions :-

ORDER

- i) The Applicant is enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- ii) The Applicant 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 Chhavani Police Station, Malegaon, District – Nashik;
- iii) The Applicant shall attend the Chhavani Police Station, Malegaon, District – Nashik, on the first Saturday of every month, between 10.00 a.m. to 11.00 a.m., till the conclusion of the trial ;
- iv) The Applicant shall not leave Malegaon, District – Nashik, without the permission of the Trial Court ;
- v) The Applicant shall not tamper or attempt to contact or influence the complainant or any persons concerned with the case;
- vi) The Applicant shall co-operate in the conduct of the trial and shall attend the concerned Court on every date of the hearing ;

- vii) An undertaking to the aforesaid clauses ii) ; iii) ; iv) ; v) and vi), shall be filed by the Applicant, in the Trial Court, within two weeks after his release ;
 - viii) 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. 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.