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

BAIL APPLICATION NO.1575 OF 2015

Rajesh Omprakash Saroj and Anr. ... Applicants
Vs
The State of Maharashtra ... Respondent

Mr.Omkar Mulekar i/b Mr.S.S.Pawar, for the Applicants.

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

P.I – S.M.Gaikwad, Bangur Nagar Police Station, Mumbai.

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

P.C. :

1. Heard the learned counsel for the Applicants and the learned APP for the Respondent-State.
2. By this application, the applicants seek their enlargement on bail in connection with C.R.No.255 of 2014 registered with the Bangur Nagar Police Station, Mumbai, initially for the offence punishable under Sections 307, 143, 144, 147, 148, 149 of the Indian Penal Code. Subsequently as the deceased succumbed to the injuries, Section 302 came to be added.
3. The complainant is one Suvarna More, wife of the deceased –

Mangesh More. She has alleged that the incident took place on 2nd November, 2014 at about 9.00 p.m. According to the complainant, after dinner, her husband left the house and thereafter within a few minutes, she learnt from some boys residing in the locality, that a quarrel had ensued between her husband and the residents of the locality and that her husband was lying in a pool of blood. The complainant informed her sister-in-law i.e. her husband's sister – Shanta S. Ithape and rushed to the spot. When she reached the spot, she found her husband lying unconscious in a pool of blood, at the end of Rajaram Galli and saw some stones scattered around. With the help of people, the complainant took the deceased initially to Sidharth Hospital and thereafter to K.E.M. Hospital. The deceased is stated to have expired on 4th November 2014, whilst taking treatment.

4. According to the complainant, she learnt from the residents of the locality that her husband had assaulted Kiran (original accused no.7) after which a quarrel ensued between her husband and the residents of the locality, in which the deceased assaulted Omprakash Saroj and Sandesh and in retaliation thereto, he was assaulted by the residents of the locality.

5. Learned Counsel for the Applicants seeks bail on the ground of parity

He states that similarly placed co-accused - Jayesh Milind Pawar and Prakash Milind Pawar have been enlarged on bail by this Court (Coram: Smt.Sadhana S. Jadhav, J.) vide order dated 28th July, 2015. He submitted that the incident in question had taken place at the spur of moment as the deceased himself had assaulted Kiran (original accused no.7).

6. Learned APP does not dispute the fact that the incident in question had taken place at the spur of moment. She submitted that the applicant no.2 herein, had assaulted the deceased with a tile and the same is borne out by the postmortem report, in particular, by the injury shown in column no.17 of the said report. Admittedly, the applicants had no inimical relations with the deceased. The prosecution case also does not disclose that there was premeditation. It appears that the incident took place at the spur of the moment. The applicants have been in custody for more than 8 months. It also cannot be disputed that similarly placed co-accused have been enlarged on bail by this Court.

7. Considering the aforesaid facts, 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.10,000/- each with one or two sureties in the like amount ;
 - ii) 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 Bangur Nagar Police Station, Mumbai ;
 - iii) The Applicants shall not tamper or attempt to contact or influence the complainant or any persons concerned with the case;
 - iv) The Applicants shall co-operate in the conduct of the trial.
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.