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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO.1809 OF 2015**

Anil Babulal Kuril

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Vinod Kashid, for the Applicant

Ms.S.S.Pednekar, A.P.P for the Respondent-State

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 29<sup>th</sup> OCTOBER, 2015***

**P.C. :**

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 57 of 2015, registered with the Antop Hill Police Station, Mumbai for the alleged offences punishable under Sections 307 r/w 34 of the Indian Penal Code.
3. The incident in question took place on 19<sup>th</sup> February, 2015 at about 2.00 p.m. The complainant is one Sangita K. Bashire. She is the wife

of the deceased – Krushna Bashire. She has stated that on the day of the incident at about 2.00 p.m., she and her husband had gone to sell vegetables at Manjrekar Road, Sion, Koliwada. She has stated that the present applicant and co-accused – Sadique-ul @Bengali had their hand-carts next to them. She has stated that when she was sitting near their spot to sell vegetables, her husband was standing on the opposite side. According to the complainant, one Rohit Jaiswal who was selling watermelons, asked her husband to keep a watch on his hand-cart as he was going for lunch. She has stated that there was a big knife kept for cutting the watermelons on the said hand-cart. According to the complainant, at about 2.15 p.m. there was a verbal altercation between the present applicant – Bengali and her husband with regard to placement of the hand-cart. According to the complainant, as her husband abused the co-accused – Sadique-ul @Bengali in foul language, being enraged with the same, co-accused – Sadique-ul @Bengali pushed her husband and is alleged to have picked up the knife, which was on the hand-cart, used for cutting the watermelons and assaulted her husband on his head, neck, as a result of which her husband sustained serious injuries. She has stated that on seeing the said incident she raised hue and cry and that the co-accused – Sadique-

ul @Bengali assaulted her husband for the third time on his face, pursuant to which her husband fell on the ground. She has stated that when Rohit Jaiswal, who was present at the spot tried to save her husband, the present applicant is alleged to have pushed him, as a result of which Rohit fell on the trunk of the tree. Thereafter, the complainant took her husband to the hospital, however, he succumbed to the injuries.

4. Learned Counsel for the applicant states that the incident occurred at the spur of moment and it was co-accused – Sadique-ul @Bengali who assaulted the complainant's husband with a big knife which was kept on the hand-cart for cutting watermelons. He submitted that admittedly, the present applicant has not assaulted the deceased. According to him, the only allegation, qua the present applicant is that he pushed Rohit Jaiswal, as a result of which Rohit fell on the trunk of the tree. He submitted that infact, a perusal of the statement of Rohit Jaiswal shows that it is not the present applicant, but the co-accused – Sadique-ul @Bengali who pushed him.

5. Learned APP does not dispute the same. He states that there is

one antecedent against the present applicant inasmuch as, there is case registered under Section 302 of the Indian Penal Code against him and that whilst on bail, this present offence is registered against him.

6. Perused the charge-sheet. It appears from the statements of the complainant and Rohit Jaiswal that the applicant is not the assailant. The incident in question has occurred on the spur of the moment and it is co-accused – Bengali who has assaulted the deceased with a knife. No overt act has been attributed to the applicant in the assault on the deceased. Rohit Jaiswal has also not attributed any overt act to the applicant. Investigation is complete and charge-sheet is filed.

7. Considering the material on record, the applicant is enlarged on bail on the following terms and conditions :

**ORDER**

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two local sureties in the like amount ;
- (ii) The applicant shall attend the concerned Police Station on the

first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his 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 concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) An undertaking to the aforesaid clauses i) to v) shall be filed by the Applicant, in the Trial Court, within two weeks after his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein 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. All concerned to act on the authenticated copy of this order.

**REVATI MOHITE DERE, J.**