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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 546 OF 2016**

Pintu@ Ramesh Tammanna Koli

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.P.G.Sarda, for the Applicant

Mr.Y.M.Nakhwa, A.P.P for the Respondent-State

Police Naik – Chavan, Jodbhavi Police Station, Solapur,

CORAM : REVATI MOHITE DERE, J.

DATE : 22nd MARCH, 2016

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. 75 of 2015, registered with the Jodbhavi Police Station, Solapur, for the alleged offences punishable under Sections 302, 307, 504, 506 r/w 34 of the Indian Penal Code.
3. The incident in question has taken place on 5th May, 2015 at about 9.30 a.m. It is alleged by the first informant – Salim Illahi Shaikh that when he went to the house of the accused persons to demand money from

the applicant, at that time the applicant and co-accused - Santosh Koli abused and threatened him and thereafter, the applicant assaulted him with a knife and when his father – Illahi Yakub Shaikh, tried to intervene, the applicant is alleged to have assaulted Illahi Yakub Shaikh, with a knife on his chest, as a result of which, he succumbed to the injury.

4. Learned Counsel for the applicant submitted that the incident occurred at the spur of moment. He relied on the statement of an independent witness – Mallappa S. Koli, which is on page 88 of the application, which discloses that a quarrel that had taken place outside the shop of the said witness. He had stated that the first informant came to the house of the applicant and started demanding money from him, as a result of which there was an altercation between the two. He has further stated that thereafter, complainant's elder brother and father came to the spot and they all held the applicant and started assaulting him. He has stated that the applicant ran into the house and brought a knife; and that just then, co-accused - Santosh Koli came out and there was some altercation between them. He has stated that when Santosh Koli's wife came to the spot, the first informant – Salim, gave a fist blow on her face and pushed her and

tore her blouse. He has stated that the applicant and co-accused - Santosh asked Santosh Koli's wife to go inside the house, after which Santosh Koli held the complainant and assaulted him on his thigh and waist and that when the complainant's father intervened, the present applicant assaulted him with a knife on his chest.

5. Learned Counsel for the Applicant states that it is a case of single blow and considering the manner in which the incident had taken place, the offence would not be one under Section 302 of the Indian Penal Code.

6. Learned APP opposed the bail application.

7. Perused the charge-sheet, in particular the statement of Mallappa S. Koli, who is an independent witness. It appears, that there was some altercation between the complainant's family and the applicant's side. It appears that after the complainant slapped the applicant's sister-in-law and tore her blouse, the applicant and co-accused assaulted the complainant and when his father intervened, the applicant assaulted him

with a knife on his chest. The injury sustained by the complainant are simple in nature. The cause of death of the deceased is 'stab injury to chest'. There are no antecedents, qua the present applicant.

8. Considering the material on record and the manner in which the incident has taken place, the applicant deserves to be enlarged on bail on the following terms and conditions :

ORDER

- (i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two 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., for a period of 12 months after his release, and thereafter once in two months, 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 to cooperate with the conduct of the trial;

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

10. 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.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.