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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.512 OF 2016**

Jitesh Nivrutti Patil

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.A.H.H. Ponda i/b Mr.Ashish R. Raghuvanshi, for the Applicant

Mr.H.J.Dediya, A.P.P for the Respondent-State

PSI – Komatkar.

***CORAM : REVATI MOHITE DERE, J.
DATE : 30th JUNE, 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. I - 194 of 2015, registered with the Dombivali Police Station, for the alleged offences punishable under Sections 302, 114 r/w 34 of the Indian Penal Code and under Sections 37(1) and 135 of the Bombay Police Act.
3. The applicant along with two other co-accused including a

juvenile accused, has been charged for the aforesaid offences. According to the prosecution, the incident took place on 16th July, 2015 at about 9.30 p.m., when the deceased went to meet his friend at the Nananani park. The Complainant, is the mother of the deceased. She has alleged that she was informed that her son was lying in an unconscious condition, pursuant to which she went to the spot and saw her son lying in a pool of blood. The complainant in her complaint/FIR has expressed suspicion as against the present applicant. The motive alleged against the applicant is that 1 ½ year prior to the incident, the deceased had assaulted the applicant's brother with an iron rod and stick.

4. Learned Counsel for the applicant submitted that the first informant (mother of the deceased) has only expressed suspicion on the applicant and the motive alleged is an incident, which had take place about 1 ½ year prior to the incident of assault. He further submitted that the statement of the two eye-witnesses, who had allegedly seen the incident were recorded on 22nd July, 2015 i.e. after 5 days, and that the said witnesses have stated that they had seen unknown persons fighting with the deceased. He submitted that no identification parade was held and as such

the applicant has not been identified by any witnesses. According to the learned counsel there is recovery of a knife at the instance of the applicant on 24th July, 2015 from the house of accused no.3.

5. Learned APP opposed the bail application. He does not dispute the fact, that no identification parade was held in the present case, more particularly when there are eye-witnesses to the said incident who had stated that they had seen an altercation between the deceased and unknown persons. Learned APP on instructions, states that the applicant has no antecedents.

6. Perused the papers. The incident took place on 16th July, 2015 at about 9.30 p.m. The complaint is lodged by the mother of the deceased only on suspicion as against the applicant and the motive alleged is a quarrel which had taken place 1 ½ year prior to the incident. It also appears that although there are eye-witnesses to the said incident who had seen the deceased being assaulted by unknown persons, no identification parade was held. The applicant has no antecedents. 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 furnishing P.R. Bond in the sum of Rs.30,000/- with one or two solvent 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. for a period of 12 months and thereafter on the first Saturday of every alternate month, till the conclusion of the trial;
- (iii) 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;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The applicant to cooperate with the conduct of the trial;

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

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.