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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1615 OF 2015**

Dilip Yellappa Arote	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.Anjali Awasthi, for the Applicant

Ms.Rutuja Ambekar, A.P.P for the Respondent-State

***CORAM : REVATI MOHITE DERE, J.
DATE : 8th JULY, 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. 145 of 2013 registered with the Vinoba Bhave Nagar Police Station, Mumbai for the alleged offences punishable under Sections 302 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that in the incident which took place on 19th June, 2013, the applicant is alleged to have

assaulted the deceased with a bamboo stick alongwith two other co-accused. She submitted that pursuant to the said assault, a complaint was lodged on 21st June, 2013 alleging offences punishable under Sections 323, 324, 452, 427, 504, 506(II) r/w 34 of the Indian Penal Code. She submitted that pursuant to the same, the applicant was arrested on 20th June, 2013 and enlarged on bail on 25th July, 2013. She submitted that thereafter on 28th June, 2013, Section 326 came to be added to the aforesaid C.R. She submitted that on 29th June, 2013 the complainant's brother expired and after 13 months i.e. on 8th July 2014, Section 302 was added to the aforesaid C.R. She submitted that pursuant to the addition of Section 302 of Indian Penal Code to the aforesaid C.R., the applicant's bail came to be cancelled by the Sessions Judge vide order dated 11th September, 2014, pursuant to which the applicant was re-arrested on 12th September, 2014. She submitted that there was a delay of almost one year, in adding Section 302 of the Indian Penal Code. She submitted that the applicant is alleged to have assaulted the deceased with a bamboo stick and at the highest the offence would be one under Section 324.

4. Learned APP has produced the postmortem report of the

deceased. She submitted that there is one antecedent registered as against the applicant of the year 2007, for an alleged offence punishable under Section 392 of the Indian Penal Code. She submitted that whilst on bail in the aforesaid C.R., the applicant has been charged for the another offence punishable under Section 326 r/w 34 registered with the Vinoba Bhave Nagar Police Station, vide C.R.No.94 of 2014.

5. Perused the papers, in particular the postmortem report. It appears that the deceased had suffered contusion on his lower back, left and right shoulder and on his left buttock. The weapon alleged to have been used is a wooden bamboo. Section 302 was added after almost 1 year. It also appears that when the aforesaid C.R., was registered alleging offences punishable under Sections 323, 324 etc., the applicant was arrested and enlarged on bail and that only when Section 302 was added, the applicant's bail was cancelled and he was taken into custody. Considering the nature of allegations as against the applicant and the fact that the investigation is complete and charge-sheet is filed, 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.20,000/- with one or two solvent 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 with the evidence 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) 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.
6. The Application is allowed in the aforesaid terms and is accordingly disposed of.
7. 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.
8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.