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

CRIMINAL BAIL APPLICATION NO.888 OF 2017

Sumit Vijay Mohite	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

***WITH
CRIMINAL BAIL APPLICATION NO.889 OF 2017***

Nitin Chandrakant Kadam	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr.Satyavrat Joshi, for the Applicants in both the Applications.

Ms.Veera Shinde, A.P.P for the Respondent-State

Dy. Sp. - Suhas Jagtap, CID Crime, Satara.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th JUNE, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By these applications, the Applicants seek their enlargement on bail in connection with C.R.No.332 of 2016 registered with the Karad

City Police Station, Satara, for the alleged offences punishable under Sections 302, 365, 386, 324, 323, 506 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicants states that admittedly the applicants were not present in the Karve Naka Police Chowky where deceased – Raosaheb Jadhav succumbed to the injuries on 18th June, 2016. He submitted that even according to the prosecution, at the time when the deceased expired, the applicants' CDR record shows that they were not at Karad, but at Wai and Javali. He further submitted that similarly placed co-accused - Amol Pawar and Sanjay Kate have been enlarged on bail, though they were duty officers present at the spot, at the Karve Naka Police Chowky, at the time of the incident. He submitted that API – Hanumant Kankadaki was entrusted with the investigation of a theft case, in which Raosaheb Jadhav (deceased) was alleged to be a receiver of the stolen property. He submitted that the applicants had surrendered suo motu, after their anticipatory bail application was rejected and that they have been in custody since 27th December, 2016.

4. Learned APP opposed the applications. She does not dispute

the fact, that the applicants were not present at Karve Naka Police Chowky when the 2nd, 3rd and 4th incident of assault took place on the deceased. She submits that however, the applicants were present with the deceased at the time of 1st assault on the deceased i.e. on 17th June, 2016 at about 11.00 a.m at Dudhebavi Ghat, at Phaltan. She further submitted that co-accused – Senior P.I. - Vikas Dhas has been absconding, till date.

5. Perused the papers. The complainant is the brother-in-law of deceased - Raosaheb Jadhav. Both, the complainant and Raosaheb (deceased) were picked up on 17th June, 2016 by API – Hanumant Kankadaki and some other police personnel, in connection with a theft case, which was registered with the Karad City Police Station. It is alleged by the complainant, that their motorcycle was stopped by the police and that thereafter the police put them in a car and took them, with them. It is alleged by the complainant, that accused – Kankadaki demanded an amount of Rs.25 lakhs from the complainant and the deceased for exonerating them from the said case, which was registered as against the deceased. The complainant has further alleged, that both of them were made to sit in a Swift vehicle initially and were later transferred in an Innova vehicle and

were brought to Karve Naka Police Chowky. He has stated that on the way, at Dudhebavi Ghat at Phaltan, the said vehicle was stopped, and they were pulled out of the said vehicle and the deceased was assaulted by the accused with branches of trees, sticks and knife, pursuant to which, the deceased sustained injuries on his thighs, hands, back etc. He has stated that thereafter, the car proceeded towards Karve Naka Police Chowky, and that they reached the said police station at around 2.00 p.m. He has stated that blood was oozing from the deceased's fingers. He has stated that thereafter Police Constable - Koli gave a fast relief tube, which the complainant applied on his back, neck, thighs and hands. He has stated that thereafter everyone left the said police station. He has stated that at the said police station, Police Constable – Koli, demanded a sum of Rs.25 lakhs to release them. He has further stated that thereafter Senior P.I. - Vikas Dhas came to the police station and that API - Kankadaki brought Senior P.I. - Vikas Dhas to the said room. He has alleged that Dhas and Kankadaki assaulted the deceased with sticks and belt on his back, stomach, private parts, thighs, etc. He has stated that thereafter, some of the persons tied their legs with a rope and that all of them started assaulting him and the deceased. He has stated that around 10.00 p.m. the officers went to have dinner and that

thereafter at around 11.30 p.m., Dhas and Kankadaki came again to the police station and that they started giving fist and kick blows to the deceased and assaulted him with sticks and belt. He has stated that thereafter at around 2.00 a.m., in the morning, they both left the police station. He has alleged that again in the morning, Dhas and Kankadaki came to the police chowky and they again assaulted them. The incident is no doubt extremely serious. It appears that the police had taken law into their own hands and had assaulted the deceased brutally. The postmortem report shows that deceased had sustained as many as 29 injuries. The immediate cause of death is stated to be 'Head injury with blunt trauma to abdomen with blunt trauma to left testis'. The deceased was declared dead on 18th June, 2016 at 4.15 p.m. at Sahyadri Speciality Hospital, Karad.

6. As far as the applicants are concerned, they appear to have been present in the 1st incident of assault, which had taken place on 17th June, 2016 at about 11.00 a.m., at Dudhebavi Ghat, at Phaltan. Admittedly, after the deceased was brought to Karve Naka Police Chowky on 17th June, 2016, at about 2.30 p.m., the applicants had left the said police chowky at about 4.00 p.m., and had not come to the police chowky thereafter. The

CDR reveals that the applicants were present in Wai and Javali and not at Karad on 17th June, 2016 evening and 18th June 2016 in the morning. It appears that after the deceased and the complainant were brought to Karve Naka Police Chowky on 17th June, 2016 at about 2.30 p.m., the deceased was assaulted thrice i.e. on 17th June, 2016, at 7.30 p.m., 11.30 p.m., and on 18th June, 2016 at 9.30 a.m. Admittedly, the applicants were not present when the deceased was assaulted on the 2nd, 3rd and 4th occasion. It appears that co-accused - Amol Pawar and Sanjay Kate, the duty guards who were present at the spot, at Karve Naka Police Chowky have been enlarged on bail. Investigation is complete and charge- sheet is filed.

7. Considering the aforesaid and the role of the applicants, the applications are allowed and the applicants are enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/-each with one or more sureties in the like amount;
- ii) The Applicants shall attend the office of the State CID, Satara, on the

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

iii) The Applicants shall not contact the complainant, witnesses or any person concerned with the case;

iv) The Applicants shall attend the trial Court on every date of the hearing.

8. The Applications are allowed and disposed of in above terms.

9. It is made clear that the observations made herein are *prima facie* and are confined to the aforesaid applications and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

(REVATI MOHITE DERE, J.)