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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1746 OF 2017

Hemant Satish Bhoir .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. R. Suryawanshi i/b. Mr. M.M.Badgujar, Advocate, for the Applicant
Mr.R.M.Pethe, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 01.09.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-63 of 2017 registered with the Hill Line Police Station, Ulhasnagar, for the alleged offence punishable under Section 302 r/w 34 of the Indian Penal Code (for short “IPC”).

3. Learned counsel for the Applicant submits that the allegations as against the Applicant are false and baseless. He further submits that taking the prosecution case as it stands, no offence as alleged under Section 302 of the IPC is disclosed. He submits that the

Applicant is alleged to have assaulted the deceased with fist and kick blows. He further submits that the Applicant had no motive to assault the deceased.

4. Learned APP opposes the Application.

5. Perused the papers. The incident has taken place on 10.03.2017 at about 8.00 p.m. The Complainant – Haresh Lal Bhoir is the son of the deceased – Lal Bhoir, and an eye witness to the incident. According to the Complainant, there was a dispute between his father – Lal Bhoir and Lal Bhoir's nephew - Jayram Savlaram Bhoir, as Jayram was laying foundation in the agricultural field of his father without his father's permission. According to the Complainant, at about 8.00 p.m. his father called on his mobile and informed, that Mahesh Wayale and Jayram Bhoir were doing construction work, behind the Ganpati mandir, pursuant to which he came to the spot, on his motor cycle. He has stated that his father was sitting near the Ganpati mandir and on reaching the spot, his father disclosed the said fact, to him. He has further stated that pursuant thereto, he and his father started walking towards the spot where construction was going on. He has further alleged that when they reached the spot, they saw that Jayram, Aniket, Mahesh and the

Applicant were sitting on the sand. He has further stated that when his father questioned Jayram, as to why he was laying foundation in his agricultural land, Jayram abused his father, held his collar and started assaulting him, with fist and kick blows. He has further alleged that when he tried to intervene, the Applicant held him and co-accused Mahesh also assaulted him with fist and kick blows. He has further stated that Jayram dragged his father and took him to an open place. He has stated that thereafter, co-accused Aniket also assaulted his father, on his chest and stomach. According to the Complainant, when he managed to extricate himself, the Applicant and Mahesh also gave fist and kick blows to his father. He has stated that when his father was lying unconscious and when he pleaded with the accused to leave his father, all the accused are alleged to have left the spot. According to the Complainant, he and one Jayesh Bhoir took him to a Hospital, where on examination, he was declared to be dead. Column No.17 of the Post Mortem Report shows that the deceased had sustained only one external injury i. e. contusion over right lower leg lateral aspect of size 10 cm x 9 cm oblique reddish. Margins blurred. It appears from Column 21 of the Post Mortem Report, that the deceased's liver and spleen had ruptured. The cause of death was stated to be 'due to harmorrhagic shock due to injury to the vital organs i. e. brain, liver and spleen. However, blood

sample kept for analysis. The deceased was about 75 years of age, at the relevant time. The Applicant had no motive to cause the death of deceased – Lal Bhoir. Investigation is complete and charge-sheet is filed. The Applicant has no antecedents.

6. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

O R D E R

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.25,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on the **1st Saturday of every month** between **10.00 a.m. to 11.00 a.m.** till framing of charge;

(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 in the conduct of the trial.

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

8. 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)