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

CRIMINAL BAIL APPLICATION NO. 407 OF 2018

Abhijeet Chandrakant Tekale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Rajiv Patil, Senior Counsel, a/w Mr.Hasan Patel, for the Applicant.

Ms.J.S.Lohokare, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 20th MARCH, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-176 of 2017 registered with the Narpoli Police Station, Thane, for the alleged offences punishable under Sections 302, 307, 143, 147, 148, 149 of the Indian Penal Code and under Section 37(1), 135 of Maharashtra Police Act.

3. Learned Senior Counsel for the applicant seeks bail on the ground of parity. He submitted that similarly placed co-accused – Rohit Madhukar Pawar and Nitin alias Bapya Shrirang Gaikwad have been enlarged on bail, by this Court, vide order dated 12th March, 2018, passed in Criminal Bail Application No.2895 of 2017.

4. Learned APP opposed the application.

5. Perused the charge-sheet. According to the complainant-Ujjwala Balkrishna Somne, she learnt from the police that her husband was lying in an injured condition, pursuant to which, she went to the spot and with the help of police took him to the I.G.M. Hospital, at Bhiwandi. She has further alleged that on the way to the hospital, her husband disclosed to her that Jitendra Tekale, Abhijeet Tekale (Applicant) and Shubham Chavan had assaulted him and while disclosing further names, he became unconscious. It appears that since there was no treatment available at I.G.M Hospital, Balkrishna (deceased) was asked to be taken to KEM Hospital and that on 18th April, 2017, Balkrishna (deceased) succumbed to his injuries. It appears that the incident of 17th April, 2017 i.e. assault on

Balkrishna (deceased) was an outcome of an earlier incident, which took place on 11th February, 2017. In the incident of 11th February, 2017, co-accused – Jitendra's wife Dakshata had lodged a complaint as against Balkrishna (deceased) and others on 12th February, 2017, alleging offences punishable under Sections 354, 324, 323, 143, 146, 147, 148, 149 of the Indian Penal Code. According to Dakshata, (Jitendra Tekale's wife), Balkrishna had outraged her modesty, pursuant to which, she disclosed the same to her husband, leading to an altercation between the parties. Admittedly, there are eye-witnesses to the said incident of assault on Balkrishna (deceased). According to the prosecution, co-accused-Jitendra assaulted the deceased with a washing bat and other accused including the applicant, assaulted Balkrishna (deceased), with fist and kick blows. A perusal of the postmortem report shows that the deceased had suffered multiple abrasions on his person. The cause of death is stated to be 'Shock and Hemorrhage as a result of Multiple injures to vital organs due to multiple blunt impacts" (Unnatural). It appears that the incident of 17th April, 2017, was an outcome of an earlier incident which had taken place on 11th February, 2017, for which Dakshata, (Jitendra Tekale's wife) had lodged a complaint, as against Balkrishna (deceased). Whether or not an offence

under Section 302 of Indian Penal Code is made out or whether it would constitute a lesser offence, is a matter which will be decided by the Trial Court. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, the application is allowed and 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.25,000/- 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., 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 trial Court as well as to the concerned Police Station, in writing;

- iv) The Applicant shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall co-operate in the conduct of the trial;
- vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two week's of his release;
- vii) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

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

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

(REVATI MOHITE DERE, J.)