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

BAIL APPLICATION NO.1124 OF 2018

Mohammed Faizal Estiyaq

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Harshad Inamdar I/b Yogesh B.Dandekar, for applicant.

Ms. A.A. Takalkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 16th July 2018.

P.C.:

1] This is an application under Section 439 of the Cr. P.C for bail in CR No. 158 of 2017 dated 29.4.2017 registered with Kurar Police Station, Mumbai under sections 302 read with 34 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant and the learned APP for the State. Perused the chargesheet.

3] The applicant is accused No.1 in the present crime. The name of deceased is Rohit Sahani. The date and time of the incident is 28.4.2017 at about 10.30 p.m The first information report is lodged by Shri Govind R. Sahani, brother of the deceased Rohit Sahani on 29.4.2017 at about 5.00

p.m. The prosecution case in brief is that, the deceased Rohit had given his mobile phone to the applicant for its repair. As the applicant did not properly repair it, Rohit (deceased) abused applicant in filthy language on mobile phone. The witnesses to the crime have observed that, on 28.4.2017 at about 10.30 p.m there was quarrel going on between the applicant and one person and during the said quarrel, the applicant all of a sudden started assaulting other person with fist blows on his face. That other person fell down on road and thereafter also the applicant assaulted the said person with kick blows on his chest. The victim thereafter got up and started running, when it is alleged that, the applicant and other two persons again assaulted him with kick and fist blows. After the people from vicinity gathered at the scene of offence, the applicant along with other persons fled away from the said spot. That injured Rohit was admitted to the hospital. He succumbed to injuries on 29.4.2017 at about 12.45 a.m. During the course of investigation the applicant came to be arrested on 29.4.2017 and after completion of investigation, the police have submitted chargesheet.

4] As noted above, the witnesses to the crime have seen that the applicant initially started quarreling with the deceased and the said quarrel

ensued in assault on the deceased. It is the prosecution case that, the deceased Rohit abused applicant in filthy language and therefore the applicant and other accused assaulted him by fist and kick blows. After perusing the statements of the witnesses, it appears that the applicant did not have intention to commit murder of Rohit and it is only when Rohit abused applicant in filthy language, in the heat of passion, all of a sudden assaulted Rohit.

In view thereof, no fruitful purpose will be served by further keeping the applicant in further incarceration.

5] In view of the above, the applicant can be released on bail.

Hence, the following Order:-

i] Applicant be released on bail in CR No. 158 of 2017 registered with Kurar Police Station, Mumbai, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

ii] After his release from jail, the applicant shall attend the Kurar Police Station, Mumbai on every first Monday of the month between 11.00 a.m to 1.00 p.m

iii] Applicant shall also attend all the dates before the Trial Court unless precluded for medical reasons.

iv] Any two consecutive defaults in complying with the aforestated conditions will attract the provisions of cancellation of bail.

6] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)