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

CRIMINAL BAIL APPLICATION NO.1260 OF 2018

Akash Vilas Jadhav ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr.A.U.Nikam, i/b Mr.Aashish Satpute, for the Applicant.

Mrs.P.P.Shinde, A.P.P for the Respondent-State.

CORAM : *REVATI MOHITE DERE, J.*

DATE : 30th JULY, 2018

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant. The first bail application of the applicant was withdrawn after arguing for some time and accordingly was dismissed as withdrawn. The same is recorded in the order dated 28th June, 2017 passed in Criminal Bail Application No.648 of 2017. Vide the said order the Applicant was granted liberty to renew his prayer for bail, if, for no fault of the Applicant, the trial did not conclude within 12 months from the date of receipt of the order. Pursuant to the liberty granted, the present Application has been filed by the

Applicant.

3. By this second application, the Applicant seeks his enlargement on bail in connection with C.R.No.296 of 2016 registered with the Panchavati Police Station, Nashik, for the alleged offences punishable under Sections 302, 307, 323, 143, 144, 147, 148, 149, 120(B), 109, 212, 34 of the Indian Penal Code, under Section 135 of the Bombay Police Act and under Section 7 of Criminal Law Amendment Act.

4. Learned Counsel for the applicant submits that pursuant to the liberty granted by this Court vide order dated 28th June, 2017, that the present application has been filed. He seeks bail on the ground of parity. He submits that identically placed co-accused - Kiran Dinesh Nagare, has been enlarged on bail by this Court (Coram:P.N.Deshmukh, J.) vide order dated 16th April, 2018 passed in Criminal Bail Application No.187 of 2018. He submitted that the role of the Applicant is identical to that of co-accused – Kiran, who has been enlarged on bail. He submits that the applicant was about 19 years of age, at the time of the incident and that the applicant is in custody since May, 2016 and that till date, the trial has not commenced.

He further submits that the applicant has no antecedents.

5. Learned APP opposes the application. She, however, does not dispute the fact, that the applicant has no antecedents.

6. Perused the papers including the order dated 16th April, 2018 passed in Criminal Bail Application No.187 of 2018 passed by this Court enlarging the co-accused – Kiran on bail. The incident took place on 27th May, 2016 at about 8.30 p.m. In the said incident, the Applicant alongwith the other co-accused are alleged to have assaulted Hemant Wagh, Sunil Wagh (deceased) as well as their mother – Mandabai Wagh. All the accused are alleged to have assaulted Sunil Wagh (deceased), Hemant Wagh (injured) and Mandabai Wagh with sticks. It is also the prosecution case, that co-accused – Kundan Pardeshi picked up a stone which was lying at the spot and threw it on Sunil Wagh, as a result of which, Sunil sustained a head injury. The cause of death of Sunil Wagh is stated to be 'Head Injury'. Admittedly, the injury certificate of Mandabai Wagh is not on record nor is it collected. The injury certificate of Hemant Wagh shows that he has sustained a fracture of his right tibia intra articular with U/3 shaft,

comminuted right L/F Fibula and Right media malleous. According to the eye-witnesses the Applicant alongwith 19 others assaulted Hemant Wagh, Sunil Wagh and Mandabai Wagh with sticks. A perusal of the postmortem report shows that the cause of death is 'Head Injury', which injury is attributed to co-accused – Kundan Pardeshi. The role of the Applicant is similar to that of co-accused – Kiran Nagare, who has been enlarged on bail by this Court vide order dated 16th April, 2018. The applicant at the relevant time was 19 years of age. The trial has not commenced till date. The Applicant has no antecedents.

7. 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.50,000/- with one or two local 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 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 or contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall co-operate in the conduct of the trial and shall attend the Court on every date given by the trial Court;

(vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in 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.

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

9. 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.

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

(REVATI MOHITE DERE, J.)