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

CRIMINAL BAIL APPLICATION NO.2895 OF 2017

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|----|------------------------------------|---------------|
| 1. | Rohit Madhukar Pawar | |
| 2. | Nitin alias Bapya Shrirang Gaikwad | ...Applicants |
| | Versus | |
| | The State of Maharashtra | ...Respondent |

Mr.Rajiv Patil, Senior Counsel, a/w Mr.Tanmay Vispute i/b Mr.H.P.Patel,
for the Applicants.

Ms.P.N.Dabholkar, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 12th MARCH, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicants seek their 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.

3. 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 the persons who assaulted him were Jitendra Tekale, Abhijeet Tekale and Shubham Chavan. She has stated that while disclosing the names, her husband became unconscious. It appears that since there was no treatment available at I.G.M Hospital, Balkrishna was asked to be taken to KEM Hospital and that on 18th April, 2017, Balkrishna succumbed to his injuries. It appears that the incident of 17th April, 2017 is an outcome of an earlier incident, which took place on 11th February, 2017. It appears that 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. It is alleged in the said complaint dated 12th February, 2017, lodged by Dakshata, (Jitendra Tekale's wife), which was registered vide C.R.No.I-58 of 2017, that Balkrishna had outraged her modesty, pursuant to which, she disclosed the same to her husband, pursuant to

which there was an altercation between the parties. Admittedly, the applicants were not involved in the incident dated 11th February, 2017. As far as the present incident i.e. incident dated 17th April, 2017, is concerned, there are eye-witnesses to the said incident of assault on Balkrishna. According to the prosecution, Jitendra assaulted the deceased with a washing bat and other accused assaulted 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 injuries to vital organs due to multiple blunt impacts' (Unnatural). *Prima facie*, it appears that the incident of 17th April, 2017, is an outcome of an earlier incident dated 11th February, 2017. According to the learned senior counsel for the applicants, the intention was not to cause an offence under Section 302 of the Indian Penal Code but to teach Balkrishna a lesson. He submitted that no weapons were used by the applicants. The applicants have no antecedents. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid, the application is 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.25,000/- each with one or two sureties in the like amount;
- ii) The Applicants 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 Applicants shall inform their 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 Applicants shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case;
- v) The Applicants shall co-operate in the conduct of the trial;
- vi) An undertaking to the aforesaid clauses (ii) to (iv), shall be filed by

the Applicants, in the Registry of the trial Court, within two week's of their 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 Applicants' bail.

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

6. 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.

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

(REVATI MOHITE DERE, J.)