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

CRIMINAL BAIL APPLICATION NO.1610 OF 2019

Sanjay Dnyandeo Yadav

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.M.S.Mohite i/b Mr.P.S.Gole, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 7th AUGUST, 2019

P.C. :

1. In view of the 'Not Before me' order passed by Hon'ble Shri Justice Sarang V. Kotwal, the aforesaid application is placed before this Court.

2. Heard learned counsel for the parties.

3. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.454 of 2017 registered with the Karad Taluka Police Station, Satara, for the alleged offence punishable under Section 302 of the Indian Penal Code.

4. Learned Counsel for the applicant states that the incident took place at the spur of the moment and that it is a case of single blow. He submitted that no weapon was used in the commission of the offence and that the applicant in the sudden quarrel that took place, picked up a stone lying at the spot and threw it at the deceased

5. Perused the papers. According to the complainant – Ramesh Yadav, son of deceased – Balkrishna Yadav, the incident took place on 29th October, 2017 at about 3.00 p.m. Admittedly, the complainant is not an eye-witness to the incident of assault. According to the complainant, he was informed that there was a quarrel going on between the applicant (nephew of deceased) and deceased – Balkrishna Yadav, with regard to harvesting of crops. The complainant has stated that when he went to the spot, he saw his father lying in a pool of blood with an injury on his head. There are two eye-witnesses. It appears that one witness has stated that when he reached the spot, he saw the applicant running from the spot and the second witness has stated that he saw the applicant giving one blow on the deceased. The postmortem report shows that the deceased died due to a

head injury. *Prima facie*, it appears that the incident took place at the spur of the moment and in the quarrel that took place between the applicant and the deceased, the applicant picked up a stone lying at the spot and threw it on the deceased, as a result of which, the deceased succumbed to the injury. Whether or not the offence would be one under Section 302 of Indian Penal Code or a lesser offence, is a matter which will be decided by the trial Court. The applicant has no antecedents. The applicant is in custody since October, 2017. 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.20,000/- 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/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 trial Court on every date of hearing, unless exempted by the trial Court;

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 weeks of his release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for 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 the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made herein.

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

REVATI MOHITE DERE, J.