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

CRIMINAL BAIL APPLICATION NO.1710 OF 2019

Vicky Suresh Lohar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.S.A.Vast, for the Applicant.

Mr.A.R.Kapadnis, A.P.P for the Respondent - State.

PI – Ajay Kulkarni, Protection and Security, Mumbai, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 26th AUGUST, 2019

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.1 of 2017 registered with the Kandivali Police Station, Mumbai, for the alleged offences punishable under Sections 302, 324, 504, 506 r/w 34 of the Indian Penal Code and under Sections 37(1) r/w 135 of Maharashtra Police Act.
3. Perused the papers. According to the prosecution, the incident

took place in the intervening night of 31st December, 2016 and 1st January, 2017 at about 12.15 a.m. It is alleged by the complainant that he and his friends were in Wadarpada chawl and were celebrating New Year, when the incident took place. According to the complainant – Bacchelal Rajbhar, the present applicant along with co-accused came to the spot. The applicant is alleged to have stated that these people had murdered his mother and that they should not be left and accordingly started abusing and assaulting the complainant with fist and kick blows. In the said fight, it is alleged that co-accused Sanju Lohar, assaulted Santosh Nedur (deceased) with a wooden log on his head, as a result of which, Santosh fell on the ground. According to the prosecution, the applicant picked up a cement paver block, which was lying at the spot and threw it on Santosh's face. It is further alleged that when the complainant –Bacchelal went to save Santosh, he too was assaulted by co-accused – Suraj with a bamboo on his head. According to the prosecution, co-accused – Dinesh also assaulted the complainant with a iron rod on his back. It appears that the complainant – Bacchelal was enlarged on bail, in connection with an offence punishable under Section 302 r/w 34 of the Indian Penal Code by this Court vide order dated 23rd June, 2014. Whilst granting bail to the complainant - Bacchelal, this Court had directed that the applicant therein, shall not reside within or enter within the local limits of Kandivali Police Station, till the disposal of the

case against him. Admittedly, the complainant – Bacchelal had not filed any application seeking relaxation of the said condition and as such the said condition was binding on him. It appears that the complainant - Bacchelal had entered the local limits of Kandivali Police Station, despite there being an order restraining him from entering the local limits of Kandivali Police Station, pursuant to which, the aforesaid offences took place. The applicant is in custody since January, 2017. Investigation is complete and charge-sheet is filed. The applicant, aged 21 years has no offence registered against him, except an offence punishable under Section 354 of the Indian Penal Code.

4. 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 enter the jurisdiction of Kandivali Police Station, Mumbai, except for the purpose of attending the police station, as mentioned in clause (ii), till the conclusion of the trial;

v) The Applicant shall not tamper with the evidence or attempt to influence/contact/threaten the complainant, witnesses or any person concerned with the case;

vi) 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;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

viii) 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.

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 the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.