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

**BAIL APPLICATION NO.1863 OF 2019
WITH
CRIMINAL APPLICATION NO.1196 OF 2019**

Birudeo Maruthi Choudhari	.. Applicant
<i>Versus</i>	
State of Maharashtra	.. Respondent

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Mr.Ritesh Thobde, Advocate for the Applicant.

Mr.H.J. Dedhia, APP for Respondent – State.

Mr.Nitesh Mohite i/b. Mr.Jaydeep D. Mane, Advocate for the Intervener in APPP 1196 of 2019.

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CORAM : PRAKASH D. NAIK, J.

DATED : NOVEMBER 18, 2019.

P.C. :

This is an application for bail. The offence was registered vide C.R.No.187 of 2019, with Solapur Police Station for the offence punishable under Section 302 read with 34 of Indian Penal Code (“IPC”, tor short).

2 First Information Report (“FIR”, for short) was lodged by the father of the deceased against unknown person. It is case of the

prosecution that the accused no.1 was married to the daughter of complainant. There use to be quarrels between accused no.1 and complainant's son. Accused no.1 was having affair with some lady who is residing in the same locality. The deceased had caught accused no.1 in company with the lady with whom he had an affair. Accused no.1 was assaulted by the deceased. Hence, he had a grudge against the deceased. Applicant is brother of accused no.1. The deceased was found dead hence FIR was lodged. Investigation was proceeded and the charge-sheet was filed.

3 Undisputedly, there is no eye witness to the incident. There is evidence in the form of last seen together against accused no.1. He was allegedly seen with the deceased. Subsequently, the deceased was found dead. He had sustained several injuries.

4 Learned Advocate for the Applicant submitted that except the recovery, there is no evidence against the Applicant. There are no criminal antecedents against him.

5 Learned APP and learned Advocate for the intervener submitted that there is recovery from the Applicant. Weapons and the blood stained clothes were recovered from him. The blood group found on the knife recovered at the instance of the Applicant was

containing "A" group. There is no CA report with regards to the blood group of the deceased on record. However, the blood found on the cloths of the deceased was "A" group. It is further submitted that there is evidence in the form of CDR against the Applicant. There was quarrel between accused no.1 and the deceased. Accused no.1 and the Applicant were residing separately. Learned counsel for the intervener also submitted that the co-accused who has been granted bail had threatened the complainant. However, he could not place on record any complaint in that regards.

6 Thus, on perusal of the material on record, it can be seen that there is no eye witness to the incident. The prosecution case proceed on the basis that accused no.1 had illicit relationship with another lady. He was married to the sister of the deceased. There were quarrels between accused no.1 and the deceased in the past. There is no eye witness to the incident attributing role to Applicant in the assault. The blood group could not be detected from the clothes of the Applicant. On the basis of the CDR, recovery of weapons, the Applicant may not be detained further in custody. There is no direct evidence against the Applicant. There are no criminal antecedents against the Applicant. Hence, on certain terms and conditions, Applicant can be granted bail.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1863 of 2019, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.187 of 2019, with Solapur Police Station on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report to Solapur Police Station once in a Month on first Saturday of the Month between 10:00 a.m. and 12:00 noon, till conclusion of the trial;
- (ii) Applicant shall not approach the prosecution witnesses and shall not threatened the witnesses and shall not tamper with the prosecution evidence;
- (iii) Bail Application and Intervention Application stand disposed of.

(PRAKASH D. NAIK, J.)