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

CRIMINAL BAIL APPLICATION NO.1894 OF 2019

1. Madhu Nandu Bhoye	
2. Nitesh @Nitya Ramesh Bhoye	
3. Bharat @Kalu Soma Wadhu	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr.S.V.Marwadi, i/b Mr.A.R.Gupta and Mr.N.M.Nadar, for the Applicants.

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

API – A.S.Kale, Kasa Police Station, Palghar, 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 Applicants seek their enlargement on bail in connection with C.R.No.23 of 2019 registered with the Kasa Police Station, Palghar, for the alleged offences punishable under Sections 302, 143, 147, 149 and 34 of the Indian Penal Code.
3. Learned Counsel for the applicants submits that taking the

prosecution case as it stands, no offence under Section 302 of the Indian Penal Code is made out, qua the applicants. He submitted that the incident took place at the spur of the moment as is evident from the complaint and the statements of the witnesses.

4. Perused the papers. According to the complainant – Yemni Vadu (mother of the deceased – Milind), she had gone to Milind's (deceased) house on 27th January, 2019 at 12'noon, with lunch. She has stated that her grandson – Jignesh was crying outside the house and her son – Milind (deceased) was sleeping inside the house. She has stated that when she asked her son – Milind (deceased) what happened, her son Milind (deceased) disclosed that he and his son – Jignesh had gone to the village on the previous day at around 9.00 p.m. to dance in the cricket party. He has stated that the music suddenly stopped when he was dancing, pursuant to which, he went to turn on the music. Milind (deceased) allegedly disclosed that suddenly the applicants and others started fighting with him and all of them assaulted him with fist and kick blows. He has stated that thereafter some persons brought him and his son –Jignesh home. He further disclosed that due to the said assault, he had pain in his abdomen. Pursuant thereto, the complainant took Milind (deceased) to the Municipal Hospital at Khanvel, however as Milind's (deceased) condition was not improving, the

doctors asked the complainant to take Milind (deceased) to Vinoba Bhave Civil Hospital, pursuant to which, Milind (deceased) was taken to the said hospital. The complainant has stated that Milind (deceased) had pain in his abdomen as his intestine had sustained injuries, pursuant to which, he was operated and was given treatment. She has further stated that on 29th January, 2019, her son (Milind) expired in the hospital. 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 applicants are in custody since January, 2019 and have no antecedents. Investigation is complete and charge-sheet is filed.

5. 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.15,000/- 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/contact the complainant, witnesses or any person concerned with the case;

v) The Applicants 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 Applicants, in the Registry of the trial Court, within two weeks of their 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 Applicants' bail.

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

7. 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.

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

REVATI MOHITE DERE, J.