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

CRIMINAL BAIL APPLICATION NO.1903 OF 2018

Safiq Abdul Ajij Mansuri ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr.Hrishikesh A. Mundargi, i/b Mr.Madan Gupta, for the Applicant.

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

PI – Kamble, Tilak Nagar Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 13th JUNE, 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.273 of 2017 registered with the Tilak Police Station, Mumbai, for the alleged offences punishable under Sections 302, 307, 323, 504 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that the incident in question has taken place near the house of the accused. He submits that the applicant is aged 19 years and has no antecedents. He submits that it is a case of a single blow and that no offence as alleged under Section 302 of the Indian Penal Code is disclosed and that the offence, if any, would be a lesser offence.

4. Learned APP opposed the application.

5. Perused the papers. The incident is stated to have taken place on 6th September, 2017, at about 6.40 p.m. According to the complainant, the applicant had gone to the area and asked about Attaulla and had threatened to assault him over a girl. The complainant has further alleged that pursuant thereto, he alongwith Afzal (deceased) and three others had gone to the area where the accused were residing and asked for the applicant. He has further alleged that the three accused i.e. Applicant – Safiq, Sarif and Sagir (all cousins) came to the spot and a quarrel ensued between the parties. According to the complainant, in the said quarrel, the applicant assaulted Afzal on his head with a iron rod. Thereafter, Afzal was

taken to the hospital. Afzal succumbed to his injuries after three days i.e. 9th September, 2017. It appears from the postmortem report that the applicant had suffered 2 CLW on his head. *Prima facie*, it appears that the incident is an outcome of a sudden quarrel. The question whether 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 is aged 19 years and is in custody since 7th September, 2017. Investigation is complete and charge-sheet is filed. The applicant has no antecedents.

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.10,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Sunday of every month, between 11:00 a.m. to 12:00 noon, 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;

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;

viii) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of 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 are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.