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

BAIL APPLICATION NO.2275 OF 2023

VISHAL DATTATRAY GHADGE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Meghdeep M. Oak a/w Adv. Diptendu Bose a/w Adv.
Puneet B. Fonia for the applicant.
Mr. P. H. Gaikwad, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 4, 2023.

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 302, 504, 506 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 03.06.2020 vide C.R. No.202 of 2020 with Shahupuri Police Station, Satara.
- 3.** The date of the incident is 01.06.2020. There are in all two accused. The applicant is the accused No.1. The applicant was arrested on 03.06.2020. The accused No.1 is

the husband of accused No.2. It is the accusation that the accused Nos.1 and 2 killed the real brother of the accused No.1. The first informant is the wife of the deceased who also happens to be the real sister of the accused No.2. For convenience and ease of reference the relevant portion of the order dated 05.10.2021 in respect of accused No.2- Usha Vishal Ghadge passed in Criminal Bail Application No.3391 of 2021 enlarging her onbail is set out :-

"5. Perused the papers. The applicant is the sister-in-law of the deceased-Ganesh and the complainant is the applicant's sister. According to the complainant, the incident took place on 1st June 2020 at around 5:30 p.m. The complainant has alleged that the applicant's husband came in front of their house and started abusing Ganesh (deceased), pursuant to which, Ganesh (deceased) also started abusing the applicant's husband. It is alleged that the applicant told her sister (complainant) that the deceased was always picking up quarrels with her husband. It is alleged that during course of the quarrel between the applicant's husband and deceased-Ganesh, the applicant's husband went inside the house, brought a wooden log and assaulted Ganesh-deceased on his head. It is alleged that the applicant was also abusing the deceased and picked up a brick lying in front of the house and threw it on deceased-Ganesh's head. Pursuant to the said incident, relatives gathered and tried to separate the applicant, her husband and the deceased-Ganesh. Thereafter, Ganesh-deceased was taken to the hospital. He was in an unconscious state. It appears that a surgery was performed on the deceased-Ganesh and that on 24th June 2020, the deceased-Ganesh succumbed to the injuries. The cause of death is stated to be head injury. From the prosecution case, prima facie, it appears that the incident took place at the spur of the moment and

that the applicant was not armed with any weapon, when she went to the house of the deceased. 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 at the time of the trial. The applicant is a lady with a small child, aged 11 years. The applicant is in custody since 5th June 2020. Investigation is complete and charge-sheet is filed.

6. In the facts, further detention of the applicant is not warranted. Accordingly, the application is allowed and the applicant is enlarged on bail.”

4. This Court therefore prima facie observed while granting bail to the accused No.2 that the incident took place at the spur of the moment. Even as per the accusations it is the accused No.2 who assaulted the deceased on his head and the applicant who was armed with a wooden log assaulted the victim.

5. Learned APP opposed the application for bail.

6. I have perused the injury certificate. Considering the observations made by this Court while enlarging the accused No.2 on bail and further considering the role of the applicant and in the facts and circumstances of the present case, in my opinion, the applicant can be enlarged on bail. The applicant was arrested on 03.06.2020 and is now in

custody for more than three years and five months. The trial has not commenced. Even the charge has not yet been framed. The trial is likely to take a long time to conclude. Though learned APP opposed the application for bail the applicant can be enlarged on bail by imposing stringent conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Vishal Dattatray Ghadge in connection with C.R. No.202 of 2020 registered with Shahupuri Police Station, Satara shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs.25,000/- for a period of 6 weeks in lieu of surety.
- (d) 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 Court seized of the matter and to the Investigating Officer of the concerned Police Station.

(e) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(f) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

7. The application is disposed of.

(M. S. KARNIK, J.)