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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPEALATE JURISDICTION

CRIMINAL BAIL APPLICATION No. 656 of 2015.

Mr Mohammed Nawajes Ajmal Hussain Shaikh..Applicant.

Vs

State of Maharashtra

..Respondent.

Mr Nilesh R. Pandey i/by A.K. Upadhyay for the applicant.

Mr S.H. Yadav, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 30th April, 2015

(AT 2:45 P.M. IN CHAMBER No.4)

P.C. :

- 1) Heard learned Counsel for the applicant and also heard learned A.P.P.for the State on this repeated bail application. Earlier bail application was rejected by this Court by a detailed order dated 15th January,2014. Second bail application was withdrawn.
- 2) The applicant is facing charge for the offence punishable under Sections 307, 397, 394, 326, 452, 506 Part II, 120-B read with section 34 of the IPC and Sections 3 and 25 of the Indian Arms Act., 1959.
- 3) In the earlier order, rejecting the first bail application, details

are given by this Court as to the role of the present applicant as actual robber entering the house. So also, it is detailed that there were recoveries at the instance of the present applicant so far as fire arm, cash and ornaments. Apparently, the ornaments were identified by the complainant woman. Even the applicant was put to test identification parade and he was identified. In the test identification parade though no role was attributed to him while identifying him in such a parade, this aspect of no specific role attributed to the applicant at the T.I. Parade identification, was discussed by this Court and earlier bail application was rejected. So also, the another submission as to grant of bail on the parity was also turned down by this Court.

4) The offences are of very serious nature as detailed above and there is ample prima facie material against the present applicant showing his involvement in the offence and moreover the Sessions Case is in progress before the Sessions Court, Mumbai and five witnesses are already examined. The prosecution has given a list of more than 22 witnesses before the Trial Court. As such, in the considered view of this Court the present application cannot be viewed in a different perspective.

5) Lastly, it is argued on behalf of the applicant that after the rejection of the first bail application of this applicant on 15th January, 2014, one co-accused was granted bail by this Court vide order dated 4th February, 2014. However, the case of the prosecution was not that the said accused who was granted bail was one of the actual perpetrators of the crime. As such though there was some recovery of mobile handsets from the said another co-accused, it must be said that so far as the main offence of robbery is concerned, the parity cannot be claimed by the present applicant for the reason that the said another accused was granted bail on 4th February, 2014.

6) In any event, considering the above factual position, there is nothing to entertain the present application when mainly the sessions case is in progress. Hence, the present application is dismissed and accordingly disposed of. Directions are given to the Sessions Court to conclude the pending Sessions Case, as expeditiously as possible.

(A.R.JOSHI, J.)