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

CRIMINAL BAIL APPLICATION NO.797 OF 2015

Shezad Hamid Khan	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.Rizwan Merchant a/w Mr.Sultan Khan i/b Mr.Rizwan Merchant & Associates, for the Applicant.

Ms.P.P.Shinde, APP for the Respondent – State.

**CORAM : REVATI MOHITE DERE, J.
DATE : 14th JULY, 2015
(IN CHAMBERS)**

P.C. :

1. Heard the learned counsel for the Applicant and the learned APP for the State.

2. This is the second bail application preferred by the Applicant. The first bail application i.e. Criminal Bail Application No.140 of 2015, was withdrawn by the Counsel for the applicant after arguing for some time on 16th February, 2015. Accordingly the said application was disposed of by this Court (Coram: Revati Mohite Dere,J.) as withdrawn vide order

dated 16th February, 2015.

3. The applicant has been arrested along with six others in connection with C.R.No.266 of 2014, registered with the Byculla Police Station, Mumbai for the alleged offences punishable under Sections 143, 144, 145, 146, 147, 148, 149, 326, 307, 504, 506 of the Indian Penal Code r/w Section 37(A)/135 of the Mumbai Police Act. The applicant is alleged to have assaulted the injured – Arbaz Khan, with a knife.

4. The learned counsel for the Applicant states that the applicant has been in custody since the date of his arrest i.e. from 30th September, 2014. He submitted that the applicant's side have also filed a complaint as against the complainant and others, which is registered vide C.R.No.267 of 2014, with the Byculla Police Station, Mumbai, alleging offences punishable under Sections 143, 144, 145, 146, 147, 148, 149 and 324 of the Indian Penal Code. He submitted that both the sides are related to each other. He submitted that the quarrel/incident took place, on account of eve-teasing of girls by the complainant's side in the said locality. He submitted that considering the fact ; (i) that the trial is not likely to

commence soon ; (ii) that the other co-accused who are also alleged to have assaulted the injured – Arbaz, have been enlarged on bail ; and (iii) the fact that the applicant has been in custody since September, 2014, the applicant be enlarged on bail. He submitted that the applicant is ready to abide by any of the conditions which may be imposed by this Court while enlarging the applicant on bail. Learned Counsel for the Applicant also states that the applicant will not prefer an application seeking modification of the condition of not entering the Mazgaon and Dockyard Road area, atleast for a period of nine months from today. The said statement is accepted.

5. Learned APP opposed the present bail application. She contended that the relations between the complainant and the applicant are strained and the possibility of an untoward incident happening after the release of the applicant cannot be ruled out.

6. Perused the papers of investigation, more particularly the statements of the eye witnesses and the medical certificate of the injured – Arbaz Khan. Although, the eye witnesses have stated in their statements that the applicant was armed with a knife and had assaulted the injured –

Arbaz Khan, the injury certificate, which is on page 37 shows that the injuries sustained by Arbaz Khan, are on the back and are simple in nature. It appears that almost all the accused except the present applicant and one Shoeb Khan have been enlarged on bail. It also appears, that there is a cross case filed by the applicant's side with respect to the same incident. Considering the fact, that the applicant has been in custody for more than 10 months and the fact that the trial is not likely to commence soon and the fact that after the first bail application of the applicant was withdrawn, the other co-accused were enlarged on bail, the Applicant also deserves to be enlarged on bail on the following terms and conditions ;

ORDER

- i) The Applicant be initially released on cash bail in the sum of Rs.50,000/-. The Applicant shall thereafter furnish P.R. Bond of Rs.50,000/- with one or two sureties in the like amount, within a period of two weeks, after his release from jail, to the satisfaction of the Trial Court ;
- ii) The Applicant shall attend the Byculla Police Station, Mumbai, once a week, i.e. on every Saturday between 10.00 a.m. to 11.00 a.m., till the conclusion of the trial ;

- iii) The Applicant shall not tamper or attempt to threaten/influence the complainant or any persons concerned with the case;
- iv) The Applicant shall deposit his passport in the trial court within a period of one week from his release ;
- v) The Applicant shall not leave the Country, without the permission of the Trial Court ;
- vi) The Applicant shall also not enter the Mazgaon and Dockyard Road area, till the conclusion of the trial ;
- vii) 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 Byculla Police Station, Mumbai;
- viii) The Applicant shall co-operate in the conduct of the trial and shall attend the concerned Court on every date of the hearing ;
- ix) An undertaking to the aforesaid clauses ii) ; iii) ; iv) ; v) ; vi) vii) and viii) shall be filed by the Applicant, in the Trial Court, within two weeks after his release ;

- x) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.
- 7. The Application is allowed and disposed of in above terms.
- 8. Needless to observe, that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.
- 9. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.