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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.1 OF 2016

Vishwambhar s/o Shankar Agarkar,
Age : 36 years, Occu.Agril.,
R/o Anandgaon, Tq. Majalgaon,
Dist. Beed

..APPLICANT

VERSUS

The State of Maharashtra
Through Police Station,
Dindrood, Dist. Beed

..RESPONDENT

Mr Prasad B. Kadam, Advocate holding for Mr S.J. Salunke, Advocate for
applicant;
Mr C.V. Dharurkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 5th October, 2016

ORAL ORDER :

The applicant – accused no.2 in Sessions Case No.47 of 2014, for offences punishable under sections 307, 504 and 506 read with section 34 of the Indian Penal Code, moved an application Exh.21 under section 227 of the Code of Criminal Procedure, seeking his discharge, which came to be rejected by learned Additional Sessions Judge, Majalgaon, by order dated 23rd November, 2015. As such, present revision.

2. While invoking the provisions of section 227 of the Code of Criminal Procedure, the learned Counsel appearing on behalf of the applicant would invite attention of this Court to the statement of Bhagwat Rode, recorded under section 161 of the Code of Criminal Procedure on 6th February, 2014 as against the incident alleged to have taken place on 5th February, 2014,

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wherein no role is attributed to the present applicant. According to him, it is just because the present applicant is the brother of co-accused, he is falsely named as accused in the first information report. In addition, he would submit that the witnesses cited against the applicant are interested witnesses and as such, there is a strong case for discharge.

3. The claim is opposed by the learned Addl. Public Prosecutor and sought dismissal of the revision on the ground that there is a strong prima facie case against the applicant.

4. It is required to be noted that a specific role is attributed to the present applicant in the first information report as he caught hold of the complainant and his brother assaulted the complainant with an axe.

5. Apart from above, the evidence of the witnesses, who are styled to be interested witnesses, is an issue which could be gone into at the stage of hearing of the trial and it will be premature to infer that the evidence of the said witnesses is required to be discharged.

6. In view thereof, no case for interference is made out. Criminal Application fails and stands rejected.

(N.W. SAMBRE, J.)

amj