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

CRIMINAL APPLICATION NO. 2686 OF 2016

Sk. Rizwan @ Izzu S/o sk. Mannan ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr S. M. Godsay, Advocate for applicant;
Mr S. J. Salgare, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 20th June, 2016

ORDER :

The applicant is seeking his release on regular bail, in connection with Crime No. 10 of 2016, registered with Sadar Bazar Police Station, Dist. Jalna, for offences punishable under Sections 307, 354 and 364 read with Section 34 of the Indian Penal Code, for alleged incident dated 4th January, 2016, for which first information report was lodged on 5th January, 2016.

2. The applicant Sk. Rizwan claimed to be a close friend of an accused No. 1 Shaikh Matin Shaikh Gaus, whose elder brother Shaikh Mobin Shaikh Gaus was married to the complainant Mubeshira. It is claimed in the first information report that the accused No. 1 Sk. Matin, removed the complainant Mubeshira from her house, made her to sit in an Auto Rikshaw alongwith applicant and accused Salim, Rikshaw driver and

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asked them to take away the complainant. It is then apparent from the investigation papers that Shaikh Mubeshira, complainant roamed in the said Auto Rikshaw alongwith accused persons for the entire day. The accused No. 1 Shaikh Matin, having taken custody of the complainant alongwith the applicant took her inside the forest and attacked her with an intention to murder her, which resulted into registration of crime in question.

3. The applicant was arrested on 21st January, 2016. The investigation in the matter is complete and chargesheet is already filed.

4. In the above referred background, Mr Godsay, learned Counsel appearing on behalf of applicant would urge that the applicant is entitled to be released on bail, as even if the investigation as is carried out till date, is taken to be true against applicant, the story as is narrated by the complainant Mubeshira in first information report and supplementary statement, does not appear to be probable so as to believe the alleged incident. According to him, the role attributed to the present applicant is that the applicant remained throughout the day with the complainant and was accomplice to the main accused Sk. Matin, who has tried to kill complainant.

5. In this background, he would submit that the applicant is entitled for bail as there are no criminal antecedents against him.

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6. Learned Additional Public Prosecutor opposed the application on the ground that, even if there is somewhat inconsistency noticed by this Court in first information report and supplementary statement of the complainant, the contradictions and omissions cannot be gone by this Court at this stage. He would then submit that there is sufficient material to connect the applicant in crime in question, so as to infer his involvement. He would therefore submit that the application be rejected.

7. Having analysed the investigation papers, as are brought on record, chargesheet and the other material, it is noted that, what has been stated in the first information report and supplementary statement, if taken to be true, the role attributed to the present applicant is that of accomplice to the main accused Sk. Matin, brother in law of complainant. It is then claimed that there was some differences between complainant and her husband i.e. brother of main accused Sk. Matin, as a consequence whereof falsely implicated in crime in question cannot be ruled out. From the record, it is apparent that the story, as is narrated in the first information report and supplementary statement, if precisely taken into consideration, as regard taking out the complainant in Auto Rikshaw with the help of Sk. Matin, making her roam alongwith applicant at unknown places, appears to be improbable. It is required to be noted that at no point of time, complainant Mubeshira has raised any alarm or sought help from people, when they were travelling in Auto Rikshaw. The role as is attributed in the commission of offence punishable under Section 307 of the Indian Penal Code, is that of accomplice, whereas, attack is carried out by the main

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accused Sk. Matin, as is apparent from the investigation papers.

8. In absence of any criminal antecedents against present applicant, in my opinion, there is no necessity to continue detention of the applicant in view of above observations. As such applicant is entitled for bail. Hence, I pass following order :

The applicant be released on bail, in connection with Crime No. 10 of 2016, registered with Sadar Bazar Police Station, Dist. Jalna, for offences punishable under Sections 307, 354 and 364 read with Section 34 of the Indian Penal Code, on furnishing P.R. Bond of Rs 20,000/-, with one surety in the like amount.

The applicant shall not tamper with the evidence and prosecution witnesses.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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