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

BAIL APPLICATION NO.1745 OF 2015

Asif Khalil Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Niteen Pradhan, a/w Ms.Farishta Menon, i/b Ms.S.D.Khot for the Applicant

Ms. Arfan Sait, A.P.P for the Respondent-State

PSI – M.K.Kalgutkar, Deonar Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 7th MARCH, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. This is the second bail application preferred by the applicant.
By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 145 of 2014 registered with the Deonar Police Station, for the alleged offences punishable under Sections 326, 394, 397

r/w 34 of the Indian Penal Code.

3. On 3rd June, 2014, one Aamir Sharfuddin Burondkar (injured) was assaulted by accused no.1 - Murtaza A. Khan, (the applicant), Tariq Nasim Khan and one Aftab. According to the prosecution, all the said persons assaulted the injured Aamir, with sword, bamboo and wooden rod. It is alleged that Murtaza took Rs.13,000/- from the Aamir's pocket.

4. Learned Counsel for the Applicant submitted that no offence whatsoever was disclosed as against the present applicant. He submitted that the main allegations are qua Murtaza, who was a known gunda in that area. He submitted that a perusal of the statement of Aamir shows that Aamir was assaulted by Murtaza with a sword and that Murtaza took away Rs.13,000/- from Aamir's pocket. He submitted that the mere fact, that there are cases registered as against the applicant would not be a ground for rejecting the applicant's application for bail.

5. Learned APP vehemently opposed the bail application. He submitted this is the second bail application preferred by the applicant and

that the first bail application of the applicant was dismissed as withdrawn and that the trial of the applicant was expedited vide order dated 27th February, 2015. He submitted that a perusal of the statement of Aamir i.e. injured shows that Murtaza, the present applicant – Asif Khan, Tariq Nasim Khan and one Aftab (absconding accused) accosted Aamir and assaulted him with a sword on his head and that one amongst them assaulted him from behind, with a weapon. According to Aamir, when he fell down, Murtaza came near him and took away Rs.13,000/- from his pocket. He submitted that the applicant has antecedents, inasmuch as, he was charged for an offence under Section 326 of the Indian Penal Code and is on bail in C.R.No.38 of 2012 registered with the Deonar Police Station.

6. This is the second bail application preferred by the applicant. On 27th February, 2015, this Court (Coram : Revati Mohite Dere,J.) had passed the following order in the first bail application preferred by the applicant:-

- “1. After arguing for some time, learned counsel for the applicant seeks leave to withdraw the application. Accordingly, the application is dismissed as withdrawn. However, the trial is expedited.
2. In view of the above, the intervention application does not

survive. The same stands disposed of.”

7. Perused the statement of the injured – Aamir. A perusal of the statement of Aamir recorded on 6th June, 2014 as well as the Supplementary statement of Aamir recorded on 7th June, 2014 clearly shows the role played by the present applicant. In the said statement dated 6th June, 2014, injured-Aamir has stated that the present applicant along with others accosted him on the road and assaulted him with a sword on his head. In the supplementary statement injured – Aamir has specifically stated that the present applicant and Murtaza held him, and that Murtaza assaulted him with a sword on his head and that the present applicant thereafter assaulted him with a wooden bamboo. It also appears, that the present applicant had committed a similar offence in February, 2012 and that a case has been registered as against him being C.R.No.38 of 2012 with the Deonar Police Station, for the alleged offences punishable under Sections 326, 323 r/w 34 of the Indian Penal Code. Infact, when the first application was dismissed as withdrawn, this Court had expedited the trial of the applicant. A perusal of the injury report, which is on page 46 of the application shows 'CLW

sutured wound over forehead occipital, pressing over left infraorbital region etc.

8. Considering the role attributed to the applicant, the injuries sustained by Aamir and the antecedent of the applicant, this is not a fit case to enlarge the applicant on bail. Even otherwise, the trial of the applicant has been expedited. The learned Judge shall make an endeavour to dispose of the aforesaid case, as expeditiously as possible.

9. Accordingly, the Application for bail is rejected and disposed of as such.

10. The Investigating Officer to take effective steps to see that the accused in the said case are produced on the dates given by the Trial Court.

11. Considering that the trial has been expedited, a copy of the aforesaid order be communicated by the learned APP to the Additional Commissioner of Police (Local Arms) Mumbai.

12. Registry to communicate the above order to the learned Sessions Judge, Bombay, who is seized of the said case, being Sessions Case No.726 of 2014.

13. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.