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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2431 OF 2015**

Vaibhav Bapu Charkari

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms.Mansha Khemka a/w Ms.Bhagyashree Upadhyay, i/b Khemka & Associates, for the Applicant

Ms.S.S.Kaushik, A.P.P for the Respondent-State

***CORAM : REVATI MOHITE DERE, J.
DATE : 7th JULY, 2016***

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 21 of 2015, registered with the RCF Police Station, Vashi Naka, Mumbai, for the alleged offences punishable under Sections 392, 452, 326 of the Indian Penal Code.
3. The incident in question has taken place on 18th January, 2014 at about 2.30 a.m. According to the complainant – Santosh Shankar

Ranpise, when he was asleep in his house, he heard some noise and hence went out and saw that his shop was open and there was one unknown person in the shop. He has stated that the said unknown person had a sharp object in his hand and that when he tried to catch hold of the said person, there was scuffle between them, in which the applicant assaulted him. Pursuant to the aforesaid, a complaint was lodged by the complainant alleging the aforesaid offences on the very same day.

4. Learned Counsel for the applicant submitted that the Trial Court has discharged the applicant from the alleged offence punishable under Section 459 of the Indian Penal Code, which is a grievous offence. She submitted that the applicant was shown to the complainant at his house and that the same is evident from the supplementary statement of the complainant recorded by the police on 31st March, 2015.

5. Learned APP opposed the bail application. She submitted that there is recovery of a gold chain belonging to the complainant, at the instance of the applicant. She submitted that the applicant had assaulted the complainant with a sharp object. She further submitted that there are

antecedents, as against the applicant.

6. Perused the papers. It appears that the applicant had filed an discharge application and that vide order dated 7th June, 2016, he has been discharged from the offence punishable under Section 459 of the Indian Penal Code. However, the learned Judge has directed that charge be framed against the applicant for the offences punishable under Sections 394 and 458 of the Indian Penal Code. There is recovery of a gold chain belonging to the complainant at the instance of the applicant. No doubt, identification parade was not held and that the applicant appears to have been brought by the police to the complainant's house in a burqah and that the complainant identified him after the burqah was removed, but the fact remains that there is recovery of a gold chain belonging to the complainant, at the instance of the applicant. The applicant has also been prosecuted for similar offences in the past. The applicant has been convicted in C.R.No.183 of 2013 for the offence punishable under Section 393 r/w 34 and Section 37(1) r/w 135 of the Bombay Police Act. There is a similar offence registered as against the applicant vide C.R.No.21 of 2012 for an offence punishable under Section 392 r/w 34 of the Indian Penal Code

which is pending, and another case registered in 2014 alleging an offence punishable under Section 37(1) r/w 135 of the Bombay Police Act. As far as the NDPS case is concerned, which was registered in the year 2014, as against the applicant, it is informed that the said proceedings have been closed under Section 258 of the Code of Criminal Procedure.

7. Considering the material on record, this is not a fit case to enlarge the applicant on bail.

8. Hence, the Application for bail is rejected and disposed of as such. However, the trial is expedited.

9. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.