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

CRIMINAL BAIL APPLICATION NO.125 OF 2017

Vijay Yashwant Kalekar	...Applicant
Versus	
The State of Maharashtra	...Respondent

***WITH
CRIMINAL APPLICATION NO.156 OF 2017
IN
CRIMINAL BAIL APPLICATION NO.125 OF 2017***

Sham Hemant Rasal	...Applicant (Orig. Complainant)
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IN THE MATTER BETWEEN

Vijay Yashwant Kalekar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.A.U.Nikam, i/b Mr.Aashish Satpute, for the Applicant.

Mr.Deepak Thakare, A.P.P. for the Respondent-State.

Mr.S.D.Chavan, for the Intervener/Original Complainant.

CORAM : REVATI MOHITE DERE, J.

DATE : 10th APRIL, 2017

P.C. :

1. Heard learned counsel for the Applicant, learned counsel for

the original complainant and the learned APP for the Respondent - State.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.187 of 2015 registered with the Lonavala Rural Police Station, Pune for the alleged offences punishable under Sections 302, 307, 120B, 201 r/w 34 of the Indian Penal Code and under Section 4 r/w Section 27 of the Arms Act.

3. Learned Counsel for the applicant seeks bail essentially on the ground of parity. He submits that similarly placed co-accused - Vikas Bhau Kadam has been enlarged on bail by this Court (Coram:Smt.Sadhana S. Jadhav, J.) vide order dated 20th December, 2016 passed in Criminal Bail Application No.1849 of 2016.

4. Learned APP does not dispute the fact that similarly placed co-accused - Vikas Bhau Kadam has been enlarged on bail by this Court. He, however, submits that in addition there is recovery of clothes at the instance of the applicant.

5. Perused the papers. Admittedly, the applicant has not been named in the FIR by the complainant or by any of the eye-witnesses. In the 1st identification parade which was held on 22nd April, 2016, one Lahu Maruti Shelke had identified the applicant as being the unknown person. However, it appears that Lahu Shelke had seen the applicant and co-accused – Vikas when he was in custody and was in the same cell as the applicant and the co-accused – Vikas. It appears that in view of the same, a 2nd identification parade was held on 6th May, 2016 i.e. after almost 5 months of the arrest of the applicant. It also appears that 4 witnesses have identified the applicant as being the person who was fleeing the spot after Dattatraya was assaulted.

6. Perused the order granting bail to co-accused – Vikas. It appears that the role of the applicant is similar to the co-accused – Vikas who has been enlarged on bail. Learned APP also does not dispute the same. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

7. Considering the aforesaid, the application is allowed and the

applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- ii) The Applicant shall report to the Lonavala Rural Police Station, on first Sunday of every month, between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;
- iii) The Applicant shall not reside in Maval Taluka, for a period of six months;
- iv) The Applicant shall co-operate in the conduct of the trial;
- v) An undertaking to the aforesaid clauses ii) to iv), shall be filed by the Applicant, in the Trial Court, within two weeks after his release ;
- vi) 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.

8. The Application is allowed and disposed of in above terms.

9. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. In view of the disposal of the Bail Application No.125 of 2017, the Intervention Application being Criminal Application No.156 of 2017 does not survive and the same is also disposed of.

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

(REVATI MOHITE DERE, J.)