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

BAIL APPLICATION NO. 352 OF 2017

Mhd. Naved Hanif Khan	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

Mr. Shyam Keswani a/w Mr. Anand Jondhale for the Applicant.
Mr. M.G. Patil, APP for the Respondent-State.
Mr. A. P. Bhatkar, PSI, L.T. Marg Police Station present.

CORAM : A.S. GADKARI, J.

DATE : 5th MAY, 2017.

P. C. :

1. This is an application under Section 439 of the Code of Criminal Procedure for bail in C. R. No. 454 of 2016 dated 18.12.2016 registered with L. T. Marg Police Station, Mumbai under Sections 307, 120(B), 506(2) of the Indian Penal Code.

2. It is the prosecution case that the informant was having dispute pertaining to financial transactions with co-accused Abdul Gani, Haji Munawar Abdul Sattar and other accused persons. That, the co-accused took help of absconding accused Fahim Ahmed Sharif Ahmed @ Fahim Machmach and planned an attack on the first informant Mohd. Afzal Ismail Memon. That, in pursuance of the conspiracy, the applicant along with co-accused Mohd. Asif Hanif Shaikh, in fact, assaulted the first informant with a chopper. After the FIR is lodged, during the course of investigation, the police arrested the applicant on 18.12.2016. After

completion of investigation the police have submitted charge-sheet.

3. The record reveals that first information report is lodged against two unknown persons; one was riding motor cycle and other assaulted the first informant with the chopper. It is the prosecution case that the applicant, assaulted the first informant on his backside with a chopper. The circumstances which links the applicant to the present crime is that, he has been identified by a shop-keeper who sold the knife/chopper used in the present crime to the applicant. It is to be noted here that the memorandum panchnama of test identification parade is in tabular form and the said witness has nowhere given any particulars about the reason for identification of the applicant. Prima facie, it appears that the said test identification parade is held in breach of the provisions of Criminal Manual. It further appears from the statement of the shop-keeper, namely, Mohd. Yusuf Abbas Ali Shaikh that the Investigating Officer had shown him the photograph of the weapon (knife/chopper) from his mobile phone and thereafter the said witness allegedly remembered that one person (accused) purchased the same from his shop. The test identification parade is held thereafter.

3. I have perused the record. Prima facie, it appears that apart from the aforesaid alleged test identification by the shop-keeper, there is no other evidence against the applicant in the present crime. It is submitted that there are no antecedents at the discredit of the applicant. In view thereof, the applicant can be released on bail.

Hence, the following order:

- (i) The applicant be released on bail in C. R. No. 454 of 2016 registered with L. T. Marg Police Station, Mumbai on his furnishing P. R. bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) After his release from jail, the applicant shall attend the L. T. Marg Police Station on first Monday of every month between 10.00 a.m. to 1.00 p.m.
- (iii) The applicant shall also attend all the date before the Trial Court.
- (iv) Any two consecutive defaults in complying with the above conditions shall attract the provisions for cancellation of bail.
- (v) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (vi) The application is allowed in the aforesaid terms.

[A. S. GADKARI, J.]