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

CRIMINAL BAIL APPLICATION NO.975 OF 2017

Akram Khan Jafar Khan
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr.M.N.Sandhyanshiv, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 1st AUGUST, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.116 of 2016 registered with the Pawarwadi Police Station, Malegaon, Nashik for the alleged offences punishable under Sections 397, 326, 324, 323, 504, 506 r/w 34 of the Indian Penal Code. It appears, that subsequently, Section 394 of the Indian Penal Code came to be

applied, pursuant to an order passed by the learned JMFC, under Section 156(3) of the Code of Criminal Procedure.

3. Learned Counsel for the applicant submits that the applicant, aged 20 years, has been falsely implicated in the aforesaid case. He submitted that there was no motive for the applicant to assault the complainant/injured. He submitted that even otherwise, it is evident, that the incident had taken place at the spur of the moment and that there was no intention to assault the complainant/injured. Learned Counsel for the applicant has tendered the undertakings of the applicant's father and mother. The said undertakings are taken on record and marked 'X' and 'X-1' for identification. In the said undertakings, the applicant's parents have undertaken to ensure that, if the applicant is enlarged on bail, the applicant will not enter the jurisdiction of Pawarwadi Police Station and Azadnagar Police Station, Malegaon, till the conclusion of the trial.

4. Learned APP opposes the application. She, however, does not dispute the fact, that the applicant has no antecedents.

5. Perused the papers. The incident has taken place on 23rd December, 2016, at about 5.00 p.m. According to the complainant – Shaikh Anis Shaikh Jabir, he was going alongwith his cousin to the Masjid for namaz, when the incident took place. He has stated that on the Mumbai-Agra Road, near Aliya Masjid, the applicant alongwith others were pelting stones on a truck. He has stated that he asked the applicant and others not to throw stones pursuant to which, all the accused got enraged and started abusing the complainant/injured. According to the complainant, when he asked them not to abuse him, they assaulted him with fist and kick blows. It is alleged that one Majyadada, pulled out a sharp weapon from his pocket and assaulted the complainant on his hand and that the applicant also pulled out a sharp edged weapon and assaulted the complainant on his abdomen. According to the complainant, in the chaos, he lost his mobile and a sum of Rs.2,500/-. Pursuant to the incident, the complainant lodged a complaint on 27th December, 2016. A perusal of the injury certificate of the complainant/injured shows, that he has sustained 2 injuries, one on his arm and other on his chest. It appears that the incident had taken place on the spur of the moment. The applicant is aged 20 years and is in jail since 28th

December, 2016. The applicant's parents have filed their respective undertakings stating therein, that if the applicant is enlarged on bail, the applicant will not enter the jurisdiction of Pawarwadi Police Station and Azadnagar Police Station, Malegaon, till the conclusion of the trial. The applicant has no antecedents. There is no recovery at the instance of the applicant. Investigation is complete and charge-sheet is filed.

6. In the peculiar facts of the case, 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.25,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the 1st and 3rd Monday of every month between 10:00 a.m. to 11:00 a.m., initially for a period of 6 months from his release and thereafter on the 1st Monday of every month, between 10:00 a.m. to 11:00 a.m, till the conclusion of the

trial;

iii) The Applicant shall not enter the jurisdiction of Pawarwadi Police Station, Malegaon, Nashik, except for the purpose of attending the police station, as mentioned in clause (ii);

iv) The Applicant shall not contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall co-operate in the conduct of the trial;

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.

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

8. 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.

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

(REVATI MOHITE DERE, J.)