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

CRIMINAL BAIL APPLICATION NO.1338 OF 2017

Nitin Maske	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.Jayshree Tripathi i/b Mr.Udaynath Tripathi, for the Applicant.

Ms.Anamika Malhotra, A.P.P for the Respondent-State.

API – Satish Maruti Pawar, Bun Garden Police Station, Pune.

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.124 of 2015 registered with the Bun Garden Police Station, Pune, for the alleged offences punishable under Sections 302 r/w 34 of the Indian Penal Code and under Section 37(1) and Section 135 of the Bombay Police Act.

3. Learned Counsel for the applicant submitted that according to the complainant, the applicant is alleged to have assaulted the deceased – Mahesh Verma with fist and kick blows. She submitted that although there are eye-witnesses to the said incident, they have not disclosed the name of the applicant. She further submitted that with respect to the incident dated 5th June, 2015, there is a cross case lodged by the accused No.1 – Pradeep Ghodake, as against the deceased and the complainant in the present case. She submitted that in the said incident, accused No.1 – Pradeep has also received injuries

4. Learned APP opposed the application. She submitted that there is an eye-witness –Lawrence Raju Pillay who has specifically seen the incident and has stated in his statement that the present applicant was armed with a sharp edged weapon and that he handed over the said weapon to Andhya @ Pradeep Ghodake, pursuant to which Andhya Ghodake assaulted the deceased – Mahesh, on his head. She further submitted that even the complainant – Sushil Suryawanshi, has named the applicant as being present at the spot and assaulting the deceased with fist and kick blows. She submitted that the applicant has 18 antecedents i.e. bodily related

offences.

5. Perused the papers. The complainant – Sushil Suryawanshi, has stated that he and his friend – Mahesh (deceased) were walking towards Maruti Mandir, when the incident took place. He has stated that Pradeep, Sachin, Saurav and Nitin (applicant) assaulted the deceased. He has attributed specific roles to each of the applicants. A perusal of the statement of Lawrence shows that the applicant was also armed with sharp edged weapon, which he handed over to Andhya Ghodake, pursuant to which Andhya Ghodake assaulted the deceased on his head. He has also stated that the present applicant assaulted the deceased with fist and kick blows. Apart from the ocular evidence, which *prima facie*, shows the complicity of the applicant, the applicant has 18 antecedents of similar nature.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

7. Hence, the Application for bail is rejected and disposed of as such.

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

(REVATI MOHITE DERE, J.)