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

CRIMINAL BAIL APPLICATION NO.1360 OF 2017

Harish Chiman Patel	...Applicant
Versus	
Union Territory of Daman & Diu	...Respondent

Mr.Majeed Menon, Senior Counsel, i/b MZM Legal, for the Applicant.

Ms.P.H.Kantharia, Special P.P., for Respondent No.1.

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 5th JULY, 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.18 of 2017 registered with the Coastal Police Station, Moti Daman, for the alleged offences punishable under Sections 160, 307, 323, and 427 of the Indian Penal Code.

3. Learned Senior Counsel for the applicant submits that the complainant and the applicant are neighbours and are related. He submits that there are several civil disputes pending between the parties. He submits that a scuffle took place on 14th March, 2017 at about 8.00 p.m., between the parties, however, it is at the instance of Head Constable – Hitendra Ranchod, of the Coastal Police Station, that the aforesaid complaint was lodged. He further submits that no offence under Section 307 of the Indian Penal Code is disclosed in the facts of the present case.

4. Learned Special Public Prosecutor opposed the application.

5. Perused the papers. The incident has taken place on 14th March, 2017 at about 8.00 p.m. It appears that the complainant and the applicant are neighbors and are related and that there are several civil disputes pending between them. Pursuant to the information received by Head Constable - Hitendra Ranchod of the Coastal Police Station, that a scuffle had taken place, the aforesaid complaint was lodged by him, alleging offences punishable under Sections 160, 323, and 427 of the

Indian Penal Code. It appears that subsequently an application was preferred by the complainant under Section 156(3) of the Code of Criminal Procedure directing the Senior P.I., Coastal Police Station, to register an offence even under Sections 307, 504, 506 r/w 34 of the Indian Penal Code. However, the said application was rejected by the learned J.M.F.C., Daman vide order dated 28th April, 2017. It appears that despite the said order, Section 307 of the Indian Penal Code has been added by the Coastal Police Station, as against the applicant. The allegation as against the applicant is that he was driving the vehicle i.e. Honda City and that he tried to dash and kill Jivan D. Patel. A perusal of the injury certificate shows that Jivan has sustained only abrasions 2 X 2cm on the right elbow and the said injury is stated to be simple. Whether or not Section 307 of Indian Penal Code applies or not, is a matter which will be decided by the trial Court.

6. As of today, considering the facts of this case, 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.15,000/- with one or two sureties in the like amount;

ii) The Applicant shall not enter the jurisdiction of Coastal Police Station, till the filing of the charge-sheet.

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.)