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

CRIMINAL BAIL APPLICATION NO.1727 OF 2016

Moshin Dilawar Jamadar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.A.U.Nikam, i/b Mr.V.V.Mohite, for the Applicant.

Mr.S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 16th JUNE, 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.272 of 2015 registered with the Karad City Police Station, Satara for the alleged offences punishable under Sections 302, 307, 120B r/w 34 of the Indian Penal Code, under Sections 3(25) of

the Arms Act and under Sections 3 and 4 of Maharashtra Control of Organised Crime Act.

3. Learned Counsel for the applicant submitted that there is no material to show the complicity of the applicant in the alleged crime. He submitted that admittedly the applicant was not present at the spot at the time of the incident i.e. on 20th July, 2015. He submitted that the only allegations as against the applicant is that he went to a hotel to meet one Shakil Golandaj between 8th and 9th July to procure a pistol, however, no pistol was given by Shakil. He relied on the statement of Shakil Golandaj, in support of the same. He further submitted that the applicant has no antecedents.

4. Learned APP opposed the application. Learned APP has filed an application of Rajlakshmi S. Shivankar, Sub-Divisional Police Officer attached to Karad Division, Satara, for opposing the application. He submitted that there is confessional statement of co-accused Firoz Kagadi made before the competent authority under Section 18 of the MCOC Act. He relied on the said confessional statement in support of his submission.

He does not dispute the fact, that there are no antecedents, qua the applicant. He also does not dispute the fact, that the applicant was not present at the spot at the time of the incident i.e. on 20th July, 2015.

5. Perused the papers, including the confessional statement of Firoz Kagadi. A perusal of the statement of Shakil shows, that the applicant alongwith others had gone to meet him for purchasing weapons. Shakil has in the said statement stated, that no weapon was given by him to the applicant or any other co-accused. The said statement is on page 235 of the compilation of documents tendered by the learned counsel for the applicant. As far as the confessional statement of co-accused – Firoz Kagadi is concerned, it only shows that he alongwith others including the applicant had gone to meet Shakil at his office. He has stated that there was talk about the money to be spent for purchasing the said weapons and that the present applicant, Shakil and Asif had exchanged their mobile numbers and that Shakil had stated that he would procure weapons. *Prima facie*, there is nothing in the confessional statement to show, that weapons were to be procured for the purpose of murdering the deceased. Admittedly, the applicant was not present at the spot on the day of the incident i.e. 20th July,

2015, when the deceased was shot. There are no antecedents, qua the applicant. Investigation is complete and charge-sheet is filed.

6. Considering the material qua the applicant, *prima facie*, it cannot be said that the accused is guilty of the offences with which he is charged. Accordingly, 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 two local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Monday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

iv) The Applicant shall appear before the trial Court on every date of hearing;

v) The Applicant shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case;

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

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two week's after his release;

viii) 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.)