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

BAIL APPLICATION NO. 1753 OF 2016

Arif Adam Ali Shaikh	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

Mr. Husen Shaikh for the Applicant.
Ms. Veera Shinde, APP for the Respondent-State.

CORAM : A.S. GADKARI, J.
DATE : 7th APRIL, 2017.

P. C. :

1. This is the second application for bail under Section 439 of the Code of Criminal Procedure. The applicant is seeking bail in C. R. No. 93 of 2015 dated 12.03.2015 registered with Ghatkopar Police Station, Mumbai under Sections 307, 324, 143, 144, 147, 149 of the Indian Penal Code and Section 37 (1) (3) read with Section 135 of the Bombay Police Act.

2. It is the prosecution case that Bibi Fatima was having an affair with the witness Jafarali Kadarali Sayyad. The family members of accused No.2 Bibi Fatima were against the said affair. That, due to the said affair there were earlier altercations between the family of the applicants and the family of Jafarali Sayyad. That, 4 to 5 days prior to the date of the incident i.e. on 12.03.2015 the deceased had altercations with the applicant No.1 and his brothers. Therefore, the deceased Imtiyaz had

lodged complaint with the police station.

3. Earlier the Bail Application No. 2374 of 2015 preferred by the applicant was dismissed as withdrawn by an order dated 17.02.2016 as the learned counsel for the applicant did not press the said application at the relevant time.

4. The record reveals that the first informant Mr. Abdul Afsar Salam Khan and the other witness namely, Jafar Ali Kadar Ali Sayyad have mentioned about the presence of the applicant at the scene of offence. However, no overt act is attributed to him by them. The witness namely, Abdul Afsar Salam Khan has stated that co-accused Chand dealt a blow with knife on the neck of deceased Abdul Imtiyaz @ Raju and the applicant along with other accused persons helped him by holding to the deceased. Apart from the said isolated statement, there is no other evidence on record to implicate the present applicant in the crime. As stated earlier, the other two eye witnesses have not attributed any active role to the applicant in the present crime. The applicant is arrested on 14.03.2015 and since then he is in jail. In view thereof, the applicant has made out a case for his release on bail.

5. Hence, the following order:

- (i) The applicant shall be released on bail in C. R. No. 93 of 2015 registered with Ghatkopar Police Station, Mumbai on his furnishing PR Bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

- (ii) After his release on bail, the applicant shall attend the Ghatkopar Police Station on every first Monday of the month between 11.00 a.m. to 2.00 p.m.
- (iii) The applicant shall also attend all the dates before the Trial Court.
- (iv) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (v) The application is allowed in the aforesaid terms.

[A. S. GADKARI, J.]