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

CRIMINAL BAIL APPLICATION NO.1983 OF 2017

1.	Rashid Kusnud Ahmed Khan	
2.	Maqsood Kusnud Ahmed Khan	
3.	Hashim Kusnud Ahmed Khan	...Applicants
	Versus	
	The State of Maharashtra	...Respondent

Mr.Mohsin Khan Latif Khan Pathan, for the Applicants.

Ms.J.S.Lohakare, A.P.P for the Respondent-State.

PSI – S.B.Zarekar, Shivaji Nagar Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 13th SEPTEMBER, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicants seek their enlargement on bail in connection with C.R.No.274 of 2017 registered with the Shivaji Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 307, 323, 504, 506 r/w 34 of the Indian Penal Code and under

Sections 4 and 25 of the Arms Act.

3. Learned Counsel for the Applicants, after arguing for some time, does not press this application, qua the applicant no.1-Rashid Kusnud Ahmed Khan and seeks liberty to file an appropriate application, after filing of the charge-sheet, before the appropriate Court.

4. As far as applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan are concerned, learned counsel for the applicants presses for bail for the aforesaid applicants. He submits that the allegation as against applicant nos.2 and 3 is that they assaulted the complainant with fist and kick blows. He submitted that admittedly, the applicant Nos.2 and 3 are not alleged to have been armed with any weapon. He submits that considering the role of the applicant nos.2 and 3, they be enlarged on bail.

5. Learned APP opposed the application.

6. Perused the papers. The incident has taken place on 18th July,

2017 at about 6.30 p.m., near the applicant No.1-Rashid Khan's shop. According to the complainant – Shakeel Salahuddin Khan, he questioned applicant No.1-Rashid Kusnud Ahmed Khan, as to why he was calling his workers to his shop, pursuant to which applicant No.1 - Rashid Khan started fighting and abusing him. He has stated that applicant no.1 -Rashid started assaulting him with fist and kick blows and that applicant Nos.2 and 3 also started abusing and assaulted him. He has stated that thereafter, applicant no. 1 in a fit of anger went to his shop and brought a sword and stated that he would kill the complainant and with the said intention assaulted him with a sword. He has stated that when he tried to duck and avoid the blow, the blow landed on his left hand, as a result of which, he sustained an injury on his hand. Admittedly, applicant Nos.2 and 3 were not armed with any weapon. The applicant Nos.2 and 3 also have no antecedents.

7. Considering the role of the applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan, the application is partly allowed and the applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan are

enlarged on bail on the following terms and conditions:-

ORDER

- i) The applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan, be released on provisional cash bail in the sum of Rs.20,000/- each, for a period of four weeks;
- ii) The applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan, shall within the said period of four weeks, of their release on cash bail, furnish P.R. Bond in the sum of 20,000/- each, with one or two sureties in the like amount;
- iii) The applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan, 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 framing of charge;
- iv) The applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan shall inform their 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 concerned Court as well as to the concerned Police Station, in writing;

v) The applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan shall not contact the complainant, witnesses or any person concerned with the case;

vi) The applicant no.2-Maqsood Kusnud Ahmed Khan and applicant No.3 - Hashim Kusnud Ahmed Khan shall co-operate in the conduct of the trial.

8. As far as applicant no.1-Rashid Kusnud Ahmed Khan is concerned, the prayer for bail is not pressed, qua him. However, the applicant no.1 is granted liberty to file an application, after filing of the charge-sheet, before the appropriate Court.

9. If such an application is filed by the applicant no.1, after filing of the charge sheet, the same shall be decided by the learned Judge, on its own merits, uninfluenced by the observations made in this application.

10. The Application is partly allowed and disposed of in above terms.

11. 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.

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

(REVATI MOHITE DERE, J.)