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

CRIMINAL BAIL APPLICATION NO.24 OF 2018

Deepak Madhukar Bhalerao	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.Leela D. Malu, for the Applicant.

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

ACP – R.M.Dhumal, Kalwa Police Station, Thane.

CORAM : REVATI MOHITE DERE, J.

DATE : 5th APRIL, 2018

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.I-236 of 2016 registered with the Kalwa Police Station, Thane, for the alleged offences punishable under Sections 395, 398, 120B of the Indian Penal Code, under Sections 4, 25 of the Arms Act, under Sections 37(1), 135 of the Bombay Police Act and under Sections 3 (1)(ii), 3(2) and 3(4) of Maharashtra Control of Organized

Crime Act.

3. Learned Counsel for the applicant vehemently submitted that the applicant has been falsely implicated in the aforesaid case. She submitted that although the incident had taken place on 18th July, 2016 and search panchanama was prepared on 18th July, 2016, it is only on 19th July, 2016, that an FIR was lodged and that there was no justification for the delay. She submitted that the complainant – Police Constable Pravin Sankhe, who lodged the aforesaid complaint was suspended in September, 2017. She submitted that there is recovery of a very paltry amount, at the behest of the applicant. She submitted that although salt and sword was seized from the applicant, the sword was not used and that no person had received any injury in the said assault; that all the earlier 4 cases that were registered as against the applicant, were registered when the applicant was a juvenile and that this was the first offence, which was registered after he attained his majority. She submitted that there are no CDR records to show the complicity of the applicant.

4. Learned APP opposed the application. Learned APP has

tendered an affidavit of the Assistant Commissioner of Police, Kalwa Division, Thane, Ramesh Malhari Dhumal. The same is taken on record and a copy thereof was handed over to the learned counsel for the applicant.

5. Perused the charge-sheet. On 18th July, 2016, the police squad of Detection Branch of Kalwa Police Station, were on patrolling duty, near the Railway Colony Road, Kalwa, at about 9.00 p.m. when they received information that 5 to 6 persons were threatening people on the road (Bali Tower Railway Colony, Kalwa) and that they were armed with weapons. Pursuant thereto, after verifying the same from the Kalwa Police Station, the police squad went to the spot. After seeing the police squad, two of the accused fled from the spot with weapons i.e. accused no.1-Sagar Wagh and accused no.6-Durgesh Warghade, however, the present applicant alongwith accused no.3-Sani Dalvi, accused no.4 – Mukeshkumar Gaud and accused no.5-Rajesh Rajput were apprehended on the spot. Pursuant thereto, in the search, one sword, and mobile phone was seized from the applicant. The seizure panchanama was effected on the very same day i.e. 18th July, 2016 from about 9.15 p.m. to 11.00 p.m. Thereafter, on 19th July, 2016, at about 10.00 a.m. the FIR was lodged as against the accused, alleging the aforesaid

offences under the Indian Penal Code and under the Arms Act. Subsequently, MCOC Act was invoked. A perusal of the charge-sheet shows, that there are statements of witnesses i.e. vegetable sellers/hawkers to show that the applicant was present at the spot of 18th July, 2016 and had threatened the witnesses. One of the witness i.e. Ajgar Ali Shaikh has clearly disclosed the complicity of the applicant i.e. the applicant had pulled out a sum of Rs.610/- from his shirt pocket. The statement of Mohammad Soheb Yakub Khaku also shows that the applicant had threatened him with a sword and had also twisted his arm. Statements of witnesses have also been recorded under Section 164 Cr.PC, which show the complicity of the applicant. There are atleast 4 cases registered as against the applicant between 2011 and 2015, when he was a juvenile. Considering the statements of the witnesses and the material, qua the applicant, it cannot be said that there are no reasonable grounds for believing that the applicant is not guilty of the offences with which he is charged.

6. It may be noted that the matter was argued and heard at length in the first session and after almost $\frac{3}{4}$ th of the order was dictated, learned

counsel for the applicant requested for a keep back, to enable her to take instructions from the applicant's mother, whether the application should be withdrawn or not and hence, only by way of indulgence, the matter was kept back in the second session.

7. At 3.00 p.m., learned counsel for the applicant tendered a written application on behalf of the applicant and sought three weeks time to file a reply to the affidavit filed by the Assistant Commissioner of Police, Kalwa Division, Thane, and for filing written submissions and citations. Learned Counsel for the applicant was well aware that the Court was not inclined to enlarge the applicant on bail and the matter was kept back only by way of indulgence to enable the learned counsel for the applicant to take instructions, inspite of the fact, that 3/4th of the order was dictated, despite the same, a written application seeking time, was tendered by the learned counsel for the applicant.

8. For the reasons set out in para 5 of this order, this is not a fit case to enlarge the applicant on bail.

9. Accordingly, the application for bail is rejected and disposed of as such. However, having regard to the age of the applicant, the trial of the applicant is expedited. The learned Judge to conclude the trial, as expeditiously as possible and in any event within 12 months from the date of receipt of this order. If, for no fault of the applicant, the trial does not conclude within the aforesaid period, the Applicant is at liberty to file a fresh application seeking his enlargement on bail, which will be considered on its own merits.

10. 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.

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

(REVATI MOHITE DERE, J.)