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

CRIMINAL BAIL APPLICATION NO.330 OF 2018

Vikas Mahadev Bane

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.V.K.Rathod, for the Applicant.

Ms.P.N.Dabholkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 5th MARCH, 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.124 of 2017 registered with the Bhandup Police Station, Mumbai, for the alleged offences punishable under Sections 307, 323, 324, 504, 201 r/w 34 of the Indian Penal Code and under Sections 4 and 25 of the Arms Act.
3. Learned Counsel for the applicant submitted that there is

discrepancy in the statement of the complainant i.e. injured – Bhavesh Solanki, in the FIR and in the Supplementary statement. He submitted that a perusal of the injury certificate shows that the weapon used was a blunt weapon, when infact a sword was used for allegedly assaulting the complainant – Bhavesh and Anand Gaikwad.

4. Learned APP opposed the application. She submitted that there is ample evidence as against the applicant. She further submitted that the applicant has 4 antecedents and as such the possibility of the applicant threatening the witnesses cannot be ruled out.

5. Perused the papers. According to the complainant – Bhavesh Solanki, the incident took place in the intervening night of 28th March 2017 and 29th March, 2017, on account of a previous quarrel (minor) between him and the accused – Rahul Mahadik and others. The complainant – Bhavesh has alleged that in the said incident, which took place in the intervening night at about 3.00 a.m., the applicant assaulted him and his friend Anand Gaikwad with a sword, pursuant to which, he and Anand sustained grievous injuries. It appears that although initially the

complainant had disclosed the names of Nilesh and Rahul as the two assailants, subsequently in the supplementary statement, he has stated that the two assailants were Akash and Sunny. A perusal of the statement of the First Informant – Bhavesh and the other injured – Anand shows that the allegations as against the applicant are consistent i.e. the applicant assaulted the complainant – Bhavesh and Anand with a sword. A perusal of the injury certificate of the complainant shows that he has sustained 4 grievous injuries. Similarly, the injury certificate of Anand Gaikwad also shows that he has sustained 3 grievous injuries on his head. There is recovery of a sword, at the instance of the applicant. The applicant has 4 antecedents i.e. C.R.No.453 of 2010, for the alleged offences punishable under Sections, 323, 353 and 504 of the Indian Penal Code; C.R.No.507 of 2010, for the alleged offences punishable under Sections 457 and 380 of the Indian Penal Code; C.R.No.353 of 2013, for the alleged offences punishable under Sections, 324, 323, 427 r/w 34 of the Indian Penal Code and C.R.No.243 of 2012, for the alleged offences punishable under Sections 454, 457 and 380 of the Indian Penal Code. It also appears that the said C.Rs have been registered as against the applicant with the Bhandup Police Station, Mumbai. In addition to the aforesaid offences, there is also a case registered

with the Vikhroli Police Station, Mumbai, vide C.R.No.119 of 2013, for the alleged offence punishable under Section 380 of the Indian Penal Code.

6. Considering the role of the applicant and the nature of the allegations, this is not a fit case to enlarge the applicant on bail.

7. Accordingly, the application for bail is rejected and disposed of as such.

8. 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.

(REVATI MOHITE DERE, J.)