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

CRIMINAL BAIL APPLICATION NO.873 OF 2018

Subhash Panditrao Gaikwad

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.A.P.Mundargi, Senior Counsel i/b Mr.Abhishek Yende, for the
Applicant.

Ms.P.P.Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 6th SEPTEMBER, 2018

P.C. :

1. Heard learned counsel for the Applicant.
2. This is the second bail application preferred by the applicant.
It is recorded in the earlier bail order i.e. in the first bail application filed by the applicant, being Bail Application No.1038 of 2017, 'that the learned counsel for the applicant after arguing for some time does not press this application, qua the Applicant No.3 i.e. Subhash Panditrao Gaikwad'.
Accordingly, the first application was disposed of as not pressed.

3. By this second application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-38 of 2014 registered with the Dindori Police Station, Nashik, for the alleged offences punishable under Sections 302, 342, 324, 143, 147, 148, 149, 323, 504, of the Indian Penal Code and under Section 135 of the Maharashtra Police Act.

4. Learned Senior Counsel for the Applicant submits that amongst the several witnesses, only two eye-witnesses have disclosed the name of the applicant i.e witness – Chintaman Dilip Gaikwad and his wife Padma Chintaman Gaikwad. He submitted that none of the other witnesses have disclosed the presence or the name of the applicant. He submitted that it is also doubtful whether the applicant was present at the spot at the time of the alleged incident, having regard to the statement of Kiran Sampatrao Dhakane.

5. Learned APP submits that there is no change of circumstance warranting interference in the earlier order.

6. Perused the papers. A perusal of the statement of the two witnesses i.e Chintaman Dilip Gaikwad and his wife Padma Chintaman Gaikwad, shows that the Applicant along with other co-accused assaulted Ramesh Sonawane and the witness himself i.e. Chintaman Dilip Gaikwad. Chintaman in his statement recorded under Section 164 of Code of Criminal Procedure has stated that Subhash Panditrao Gaikwad i.e present Applicant, held the collar of Ramesh Sonawane and assaulted him with a koyta, on his head. In his 161 statement, Chintaman had stated that the present applicant had held the collar of Ramesh Sonawane with one hand and had koyta in his other hand. It also appears that the applicant thereafter chased Chintaman and assaulted him alongwith other co-accused. The postmortem report of Ramesh Sonawane shows that he had sustained as many as 9 incised injuries. Chintaman had also sustained injuries.

7. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

8. Hence, the application for bail is rejected and disposed of as such. However, since the case is of the year 2014, the trial of the

applicant is expedited. The learned Judge to conclude the trial as expeditiously as possible and preferably within 12 months from the date of receipt of this order.

9. 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.)