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

CRIMINAL BAIL APPLICATION NO. 1473 OF 2018

Dashrath Gangaram Bahadur Singh

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Deepak Gautam for the Applicant

Mr. S. I. Agarkar APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : 19th NOVEMBER, 2018.

P.C.

The Applicant is seeking regular bail in crime no. I-137/2017 registered with Naupada Police Station under Sections 399, 400, 401, 402 120 (B) of the Indian Penal Code r/w Sections 4, 25 of the Arms Act r/w Sections 3 (1) (ii), 3 (2), 3 (4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOCA).

2 The Applicant was apprehended on 19/04/2017 and was charge-sheeted.

3 Of the total accused who are charge-sheeted, it is informed that accused nos. 2 to 10 are released on bail. According to the Applicant, he is claiming

parity based on the order of release in favour of accused nos. 2 to 10. Apart from above, according to the learned counsel for the Applicant, but for the present single offence, there is no substantial material to justify invoking MCOCA against the Applicant.

4 The learned APP has tried to oppose the bail based on the confessional statement recorded under Section 18 of the MCOCA. According to him, in the confessional statement dated 27/06/2017 of main accused Mohammad, specific role is attributed to the Applicant and that being so, his application needs to be rejected.

5 Perused material available on record against the present Applicant. The fact remains that accused nos. 2 to 10, in spite of confessional statement of accused no. 1 recorded under Section 18 of the MCOCA are already released on bail. The prosecution has failed to demonstrate as to how the case of the present Applicant can be treated differently than that of the case of accused nos. 2 to 10.

6 One more aspect which this Court must take note of is the confessional statement already stood retracted and the validity of such statement can be

looked into at the trial stage. That being so, in my opinion, the application needs to be allowed.

7 The Applicant be released on bail in crime no. I-137/2017 registered with Naupada Police Station for offence punishable under Sections 399, 400, 401, 402 120 (B) of the Indian Penal Code r/w Sections 4, 25 of the Arms Act r/w Sections 3 (1) (ii), 3 (2), 3 (4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOCA) upon executing P.R. Bond in the sum of Rs. 15,000/- with two sureties in the like amount. The Applicant shall not influence or tamper with the evidence.

8 It shall be open for the prosecution to move for cancellation in case if Accused/Applicant is found to be involved in other similar offence.

9 The Application stands disposed of.

[NITIN W. SAMBRE, J.]