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

CRIMINAL BAIL APPLICATION NO.1771 OF 2017

Mohammad Samir@ Guddu Akram Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Mohammed Muqim Khan, for the Applicant.

Mr.M.G.Patil, A.P.P for the Respondent-State.

API – Rajiv Patil, Bhiwandi Taluka Police Station, Thane.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th 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.202 of 2016 registered with the Bhiwandi Taluka Police Station, Thane, for the alleged offences punishable under Sections 395, 397, 341, 120B, 412, 201 of the Indian Penal Code.

3. Perused the charge-sheet. The incident is alleged to have taken place on 12th September, 2016 at about 2.15 p.m. According to the prosecution, the applicant alongwith other co-accused committed dacoity on a vehicle, owned by Supreme Infrastructure Company. The accused persons allegedly assaulted Abhijit Pawar by threatening to kill him and looted an amount of about Rs.33.50 lakhs. During the course of investigation, the applicant was arrested and after investigation, charge-sheet was filed. The applicant is alleged to have thrown chilly powder in the complainant's eyes, pursuant to which, he was assaulted by the co-accused. In the said incident, the complainant – Ghanshyam received an injury i.e. deep CLW on his left palm and a CLW on his left upper palm. It also appears from the injury certificate, which is on page 74 of the application, that the complainant suffered Hypovolemic shock and unconsciousness for one hour. The applicant has been identified in the identification parade held by the Executive Magistrate, Bhiwandi, Thane, on 15th October, 2016. Both, the complainant- Ghanshyam, as well as Abhijit Pawar have identified the applicant in the identification parade.

4. Learned Counsel for the applicant assailed the identification parade on several grounds. Learned Counsel also relied on the order dated 20th February, 2018, passed by this Court (Coram:A.S.Gadkari,J.) in Bail Application No.1772 of 2017, enlarging co-accused – Mohammad Nasruddin Akram Khan, on bail. There is no parity with the said co-accused, inasmuch as, the applicant therein i.e. Mohammad Nasruddin Akram Khan, was not identified in the identification parade.

5. Considering the fact, that the applicant has been identified in the identification parade by two witnesses, *prima facie*, shows the complicity of the applicant in the alleged offences. The possibility of the applicant tampering with the witnesses also cannot be ruled out.

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

7. Hence, the application for bail is rejected and disposed of as such. However, the trial of the applicant is expedited.

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.)