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

CRIMINAL BAIL APPLICATION NO.2199 OF 2017

Javed Ali Jamal Shaikh @ Javed Taxi	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Aniket Vagal, for the Applicant.

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

P.I. - A.A.Kagale and P.C. Wadile, Santacruz Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 9th 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.175 of 2014 registered with the Santacruz Police Station, Mumbai, for the alleged offences punishable under Sections 143, 144, 145, 147, 149, 450, 387, 427, 307, 120B, 506(2) of the Indian

Penal Code, under Sections 4, 25 of the Arms Act and under Sections 37(1) and 135 of the Maharashtra Police Act. It appears that subsequently MCOC Act was invoked in particular, Sections 3 (1)(ii), 3(2) and 3(4) of Maharashtra Control of Organized Crime Act.

3. Learned Counsel for the applicant seeks bail on the ground of parity. He submitted that identically placed co-accused – Mohd. Zuber Yakub Shaikh, Pramod Yellappa Sanai@Pamya, Mohd. Iliyas Abdul Rashid Shaikh, Kalpesh Umaji Bhitre, Javed Jafar Sayyad, Zakik @Kadir Abdul Hafiz Ansari, Imitiyaz Esmail Sayed, etc., have been enlarged on bail by this Court vide different orders.

4. Learned APP does not dispute the fact that the role of the applicant is similar to that of the co-accused mentioned hereinabove, who have been enlarged on bail by this Court. She, however, states that the trial has commenced and till date 4 witnesses have been examined in the present case.

5. Perused the papers, in particular the orders. It appears that there was some animosity between the main accused-Zulfikar and Yusuf Pathan. The incident took place on 1st March, 2014, in which the office premises of the builder Yusuf Pathan was vandalized. Accordingly, a complaint was lodged by the Security Guard. In the course of investigation, several accused were arrested, including the applicant. Admittedly, no one was injured in the said incident and the applicant was not seen at the spot of the offence nor was he captured in the CCTV camera, as it appears that the accused had covered their faces. There is no dispute that the role of the applicant is similar to the aforesaid co-accused, who have been enlarged on bail by this Court.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;

ii) The Applicant shall attend the concerned Police Station, on the first Sunday of every month, between 11:00 a.m. to 1:00 p.m., till the conclusion of the trial;

iii) The Applicant shall co-operate in the conduct of the trial and shall attend the Court on every date given by the trial Court;

iv) The Applicant shall not leave the jurisdiction of Mumbai and Thane, till the conclusion of the trial;

v) An undertaking to the aforesaid clauses (ii) to (iv), shall be filed by the Applicant, in the trial Court, within two week's of his release;

vi) If there is a single default either in attending the Police Station or in appearing before the trial Court, considering the fact that the trial has commenced, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

(REVATI MOHI TE DERE, J.)