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

CRIMINAL BAIL APPLICATION NO.2535 OF 2017

Prasad Gopal Poojari	..Applicant.
V/s.	
State of Maharashtra	..Respondent.

Mr.V.B.Jaiswal with Mr.Siddharth Jaiswal for the applicant.

Mr. Ajay Patil, APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

DATE : JANUARY 24, 2018

PC.:-

The applicant who came to be arrested on May 14, 2016 for the offences punishable under section 370(3) 34 of the Indian Penal code and under sections 3, 4, 5, 7(1)(b) of the Prevention of Immoral Traffic Act, 1956 in Crime No.259/2016 registered with the non applicant i.e. M.I.D.C. Police Station, Mumbai is seeking regular bail.

2. It is the case of the applicant that other similarly placed accused in the aforesaid crime were ordered to be released on bail by this Court on December 16, 2016. The learned counsel for the

applicant invited the attention of this Court to the order granting bail to the other similarly placed accused and rejection of prayer for bail of the applicant and would urge that no crime No.728/2013 is registered or pending investigation against the applicant. According to him, another crime No.295/2014 for similar type of offence has resulted in acquittal order in Sessions Case No.805 of 2015, as is apparent from the copy of the judgment dated October 11, 2017. He submits that for more than one and half years, the applicant is behind the bars. Similarly placed accused are already released on bail and no similar type of offence or any other offence pending prosecution could be considered against the applicant. He sought release of the applicant on regular bail.

3. The learned APP for the State would invite attention of this Court to the observations made in the order dated December 16, 2016 in Bail Application No.2268 of 2016 and would clarify that instead of Crime No.728/2013 referred to in para 2 of the said order, the said be corrected to read as Crime No.798/2015 punishable for offence punishable under section 324 and 504 of

the Indian Penal Code in which charge-sheet is already filed. He would submit there is no appeal preferred against the acquittal of the applicant in Crime No.295/2014 in response to the Court's query. According to him, the applicant has a criminal background apart from the fact of acquittal, there are three offences to his credit, his application is liable to be rejected.

4. Considered the rival submission. It is borne out of record that the applicant is acquitted in Crime No.295/2014 which was the basis for rejection of his bail application vide order dated December, 16, 2016. Other similarly placed accused namely Kamlesh Dube and Ankush Kamble are already released on bail.

5. Apart from above, it is required to be noted that in Crime No.798/2015 punishable for offence under 324 and 504 of the Indian Penal Code, the charge-sheet is already filed against the applicant in which he is already released on bail.

6. As a consequence of the above, the ground for rejection of bail application of the applicant in the earlier round of litigation

viz. pendency of prosecution of the applicant on similar set of facts and offence no more exists on this date, in view of his acquittal.

7. In the backdrop of above, in my opinion, case for grant of bail is made out. The applicant herein be released on bail on his furnishing P.R. Bond of Rs.25,000/ with two sureties in the like amount.

8. If it is notice that the applicant is involved in similar type of offence as in the present case, the prosecution will be at liberty to move for cancellation of bail of the applicant and the same will be considered while dealing with the prayer for grant of bail in the new offence, if any.

9. The applicant shall not tamper with the evidence or pressurise the witness.

10. The application is allowed in the above terms.

(NITIN W.SAMBRE, J.)