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

CRIMINAL BAIL APPLICATION NO.2474 OF 2016

Nijamuddin @ Alimuddin Nasibdar Fakir.

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. G.S. Hegde i/b U.V. Singh & A.S. Yadav for Applicant.

Ms. J.S. Lohokare, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 20th FEBRUARY 2018.

P.C.:

1] This is an application under Section 439 of Cr. P.C for bail in CR No.I-34 of 2009 registered with Shil Diaghar Police Station, District-Thane under Sections 302, 201 and 34 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant and the learned APP. Perused the record of investigation.

3] The name of deceased is Pramod Sharma. The date of incident is 20.2.2009. The record clearly indicates that since the date of incident, the applicant was absconding. That the Trial Court had to separate the trial pertaining to the present applicant and conducted the trial against the other accused namely Asaruddin Khan and when the said accused person was

acquitted by Judgment and Order dated 29.7.2013, the applicant thereafter came to be arrested on 29.4.2016. Thus it is clear that for a period more than seven years, the applicant was absconding and it is only after the acquittal of applicant No.1 Azaruddin Khan, he made his present felt. The record indicates that the applicant was earlier involved in four other crimes namely (1) CR No.259 of 2005 registered with Mohana Police Station under Sections 396, 412 of Indian Penal Code (2) CR No.262 of 2005 registered with Mohana Police Station under Sections 459, 411 of Indian Penal Code (3) CR No.124 of 2005 registered with Jogia Police Station under Sections 458, 411 of Indian Penal Code (4) CR No.264 of 2005 registered with Mohana Police Station under Sections 4, 25 of Indian Penal Code.

The learned Counsel for the applicant submitted that, the applicant has been acquitted in three crimes out of the said four crimes.

4] The learned APP on instructions submitted that if the applicant is released on bail, there is every possibility that he will again abscond and will not be available for trial.

5] The aforestated facts shows the inclination of the applicant towards criminality, coupled with the fact that the applicant was

absconding for more than seven years from the date of commission of the present crime, this Court is of the considered view that the applicant does not deserve to be released on bail.

Application is accordingly rejected.

6] The learned Additional Sessions Judge seized of Sessions Case No.219 of 2009 is hereby requested to make an endeavour to conclude the trial of the said case qua the present applicant within one year from the date of receipt of this Order.

(A.S.GADKARI, J.)