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

CRIMINAL BAIL APPLICATION NO.3003 OF 2017

Ismail Adam Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.M.H.Ebrahim, for the Applicant.

Ms.J.S.Lohokare, A.P.P for the Respondent-State.

P.I. - Vinod Patil and PSI – Parab, Aarey Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 9th APRIL, 2018

P.C. :

1. Heard learned counsel for the parties.
2. This is the third bail application preferred by the applicant. None of the earlier applications were rejected on merits and were withdrawn, nor do the earlier orders reflect that the said applications were argued and then withdrawn. By this application, the Applicant seeks his

enlargement on bail in connection with C.R.No.70 of 2015 registered with the Aarey Police Station, Mumbai, for the alleged offences punishable under Sections 302, 34 of the Indian Penal Code, under Sections 3, 25, 27 of the Arms Act and under Section 37(1) of the Maharashtra Police Act.

3. Learned Counsel for the applicant seeks bail on the ground of parity. He submitted that identically placed co-accused – Yogesh Ramkrishna Kokane, has been enlarged on bail by this Court (Coram:A.S.Gadkari, J.) vide order dated 26th March, 2018, passed in Bail Application No.1714 of 2017. He submitted that admittedly the applicant is not one of the assailants and that the only allegation as against him, is that of conspiracy. He submitted that there is no recovery, at the instance of the applicant.

4. Learned APP does not dispute the fact that the role of the applicant is similar to that of co-accused – Yogesh Ramkrishna Kokane, who has been enlarged on bail by this Court vide order dated 26th March, 2018, passed in Bail Application No.1714 of 2017.

5. Perused the papers. The incident is alleged to have taken place on 22nd May, 2015 and deceased – Raju Shinde, expired on 2nd July, 2015. According to the prosecution, pursuant to the conspiracy hatched by all the accused, 3 months prior to the incident, Accused Nos.4 and 5 i.e. Sandip Khairnar and Satish More, respectively fired at Raju Shinde (deceased) on 22nd May, 2015. Admittedly, the applicant is not one of the assailants, who fired at deceased – Raju Shinde. There is no recovery of any weapon, at the instance of the applicant. The role attributed to the applicant is of conspiring to commit murder of Raju Shinde (deceased). The role of the applicant is identical to that of co-accused – Yogesh Ramkrishna Kokane, who has been enlarged on bail by this Court vide order dated 26th March, 2018, passed in Bail Application No.1714 of 2017.

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 solvent sureties in the like amount;

ii) The Applicant shall attend the concerned Police Station, on the first Sunday of every month, between 10:30 a.m. to 12:00 noon, till the conclusion of the trial;

iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

iv) The Applicant shall co-operate in the conduct 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 are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, 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 MOHITE DERE, J.)