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

**BAIL APPLICATION NO.1027 OF 2019
WITH
APPP NO.488 OF 2019**

Abdul Wahab Ansari **..Applicant**

Vs

The State of Maharashtra . **..Respondents**

**WITH
BAIL APPLICATION NO.1028 OF 2019
WITH
APPP NO.486 OF 2019**

Abdul Haq Mohd. Yasin Ansari **..Applicant**

Vs

The State of Maharashtra . **..Respondents**

Mr. Nitin Prdhan I/b Ms. Subhada D. Khot for the Appliants in both Baiul Applications.

Mr R.M. Pethe, APP for the State.

Mrs. V.A Thorat I/b V.V. Thorat for the first informant/Intervener.

CORAM : A.S.GADKARI, J.

DATE : 2nd April 2019.

P.C.:

1] These are applications under Section 439 of Cr. P.C. for bail in CR No. 511 of 2018 dated 12.11.2018 registered with Oshivara Police

Station, Mumbai under Sections 307, 326, 324, 323, 143, 144, 145, 147, 148, 149, 452, 427, 504, 506 of the Indian Penal Code and under sections 4, 25 of Arms Act.

2] Heard the learned counsel for the applicants, the learned counsel for the first informant/ Intervener and the learned APP. Perused the chargesheet.

3] It is the prosecution case that, on 12.11.2018 at about 1.30 p.m the developer of Ghas Compound Industrial Association namely Mr. Ahat Khan and his brother Mr. Abdul Wahab along with their associates had been to the site for conducting soil testing. At that time, the accused persons in CR No.510 of 2018 questioned their presence at the site and demanded permission granted by the concerned Authority for conducting the said test. Thereafter, an altercation took place between the accused persons from CR No.510 of 2018 and the present crime which ensued in a free fight. It is alleged that, the applicants herein assaulted the first informant and other witnesses with iron rod and swords. That the first informant suffered grievous hurt to his eye which resulted into loss of it. During the course of investigation, the applicants came to be arrested on 13.11.2018. After completion of investigation, the police have submitted

chargesheet.

4] Mr. Pradhan, the learned counsel for the applicants submitted that, the alleged weapons used in the present crime by which the grievous hurt to the eye of the first informant is caused i.e. sword, has not been recovered by the police despite the applicants are in jail for pretty long time. That the accused persons in CR No.510 of 2018 registered with Oshiwra Police Station, Mumbai have been granted pre-arrest bail by this Court by its Order dated 26th March 2019. He submitted that, the police have already completed the investigation of the present crime and submitted chargesheet and therefore no purpose will be served by further keeping applicants in incarceration. He therefore prayed that, the applicants may be granted bail.

5] Mrs. Thorat, the learned counsel for the Intervener submitted that the applicants are habitual offenders and if they are released on bail, they will not spare the life of the first informant and other witnesses and therefore the present applications for bail may be rejected.

6] Perusal of the chargesheet would indicate that, there is substance in the contention of the learned counsel for the first informant. The investigation of the present crime is completed and the police have

submitted chargesheet in the Court of Competent jurisdiction. The accused persons in CR No.510 of 2018 have been granted pre-arrest bail by this Court. As far as apprehension of the learned counsel for the first informant is concerned, the same can be taken care of by imposing stringent condition upon the applicants. No fruitful purpose will be served by keeping the applicants in further incarceration and the applicants can be released on bail.

Hence the following Order:-

- i] Applicants be released on bail in CR No. 511 of 2018 registered with Oshiwara Police Station, Mumbai on their furnishing PR bond of Rs.25,000/- each with one or two separate solvent local sureties in the like amount;
- ii] Before their actual release from jail, the applicants shall submit their proposed residential addresses with the Oshiwara Police Station and also before the Trial Court.
- iii} The applicants shall attend all the dates before the Trial Court unless exempted by the concerned Court.
- iii] In case of two consecutive defaults, the Investigating Officer is at liberty to file an application for cancellation of bail.

7] Both the Applications are allowed in the aforesaid terms.

8] In view of Order passed in Bail Application Nos.1027 and 1028 of 2019, Criminal Applications (APPP) Nos.488 and 486 of 2019 for intervention do not survive and the same are accordingly disposed off.

(A.S.GADKARI, J.)