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

CRIMINAL BAIL APPLICATION NO.2087 OF 2019

Santosh Sureshchandra Upadhyay	
@ Vinaykumar Sureshchandra Upadhyay	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.K.H.Giri, for the Applicant.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 17th SEPTEMBER, 2019

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.437 of 2018 registered with the Kurar Police Station, for the alleged offences punishable under Sections 399, 402 of the Indian Penal Code, under Sections 4 and 25 of the Arms Act and under Section 37(1)(a) r/w Section 135 of the Maharashtra Police Act.
3. Perused the papers. According to the prosecution, the incident took place on 3rd August, 2018 at about 3.10 a.m. It is alleged by

the prosecution that 2 persons came on a black Honda motorcycle and went towards Hotel Mallika, Malad (East), Mumbai and thereafter, again stood at the corner of Triveni Nagar. It is alleged that 3 more persons joined them and after some time 2 more persons came near the spot. It is alleged by the prosecution that the said persons were talking softly with each other and were preparing to commit dacoity, pursuant to which, the Police laid a trap. On seeing the trap being laid, some of the accused ran from the spot. It is stated that 3 persons who were arrested disclosed the name of the 4 persons including the applicant, who had fled from the spot. The only material *qua* the applicant is the statement of the co-accused, which is inadmissible in law. Apart from the said material, there is no material to connect the applicant with the alleged offences. Merely because the applicant has antecedents, cannot be a ground to reject his application, considering the material on record, *qua* him. The applicant is in custody since August, 2018. Investigation is complete and charge-sheet is filed.

4. 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.20,000/- with one or two local sureties in the like amount;

- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., for a period of 24 months, from the date of his release;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;
- iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;
- vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

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

6. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.