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

CRIMINAL BAIL APPLICATION NO.2011 OF 2018

Sagar Sutar	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr.Abhijeet Desai, i/b Desai Legal, for the Applicant.

Ms.P.P.Shinde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th AUGUST, 2019

P.C. :

1. Heard learned counsel for the parties.

2. This is the second bail application preferred by the applicant. The first bail application of the applicant was withdrawn, when the Court (Coram : Revati Mohite Dere, J.) was not inclined to enlarge the applicant on bail, vide order dated 29th June, 2017.

3. By this second bail application, the Applicant seeks his enlargement on bail in connection with C.R.No.305 of 2014 registered with the Hadapsar Police Station, Pune, for the alleged offences punishable

under Sections 302, 307, 143, 147, 148, 149, 120-B and 153-A of the Indian Penal Code.

4. Learned Counsel for the applicant seeks bail on the ground of parity. He submits that identically placed co-accused – Dada Modak @ Shekhar Anil Modak, has been enlarged on bail by this Court, vide order dated 29th June, 2017, passed in Criminal Bail Application No.137 of 2017. He submitted that the role of the applicant is similar to that of co-accused – Dada Modak, who has been enlarged on bail.

5. Learned APP opposed the application. She has filed an affidavit of Shivaji Shankar Shinde, Police Inspector, Hadapsar Police Station, Pune.

6. Perused the papers as well as the order dated 29th June, 2017, on which parity is sought. According to the complainant –Shaikh Mobin Mohammed Sadik, his brother – Shaikh Mohsin and his friend – Riyaz had been to the mosque, on 2nd June, 2014, at about 8.30 p.m. He has alleged that after offering prayers when they were returning from the mosque on their motorcycles, suddenly 20 persons came there on 7 to 8 motorcycles, armed with hockey sticks, bats and stones in their hands. The

complainant has alleged that on seeing his brother in a light green coloured Pathani shirt and on seeing his beard, the accused assaulted him with hockey sticks, bats and stones all over his body, as a result of which, he succumbed to his injuries. The accused are alleged to have further assaulted Amin Haroon Shaikh and one Ejaz Yakub Bagwan, on their person, as a result of which both Amin and Ejaz sustained injuries. During the course of investigation, the applicant was arrested along with other co-accused. During investigation, 9 motorcycles, 18 mobile handsets, clothes of accused and weapons were seized. In the identification parade, that was held, the applicant was identified by injured – Amin. The applicant has also been identified by three witnesses pre and post the incident i.e. by Suresh Ingale prior to the incident and by P.I. - Sunil Pandharkar and API - Santosh Gore, post the incident. There is recovery of blood stained hockey sticks and clothes, at the instance of the applicant. As far as parity with co-accused – Dada Modak, is concerned, there is no parity, inasmuch as, co-accused – Dada Modak, had no antecedents. There are 3 offences registered as against the applicant and one Chapter Case i.e. C.R.No.245 of 2012, registered with Hadapsar Police Station, Pune, for the offences punishable under Sections 325, 427 r/w 34 of the Indian Penal Code ; C.R.No.264 of 2013, registered with Hadapsar Police Station, Pune, for the offences punishable under Sections 143, 144, 147, 325 of the Indian

Penal Code; C.R.No.250 of 2014, registered with Hadapsar Police Station, Pune, for the offences punishable under Sections 143, 144, 147, 324 of the Indian Penal Code; and Chapter Case No.97 of 2006, Cr.P.C.

7. Learned Counsel for the applicant has also placed reliance on the order dated 28th March, 2018, by which co-accused – Ganesh @Ranjeet Shankar Yadav, who also had one antecedent and despite the same, has been enlarged on bail. A perusal of the order dated 28th March, 2018, granting bail to co-accused – Ganesh @Ranjeet Shankar Yadav, shows that in that case (antecedent), the complainant therein had filed an affidavit that Ganesh @Ranjeet was not involved in that case.

8. Be that as it may, having regard to the role played by the applicant; the manner in which the deceased was assaulted and having regard to the antecedents of the applicant, this is not a fit case to enlarge the applicant on bail. The possibility of the applicant committing a similar offence cannot be ruled out. In the facts, the possibility of tampering with the witnesses also cannot be ruled out.

9. Hence, the application for bail is rejected and disposed of as such. However, since the case is of the year 2014, the trial of the

applicant is expedited. The learned Judge to conclude the trial as expeditiously as possible and preferably within 16 months from the date of receipt of this order.

10. 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.

REVATI MOHITE DERE, J.