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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2401 OF 2018

Naeem Khalil Momin ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Mr.Meghashyam K.Kocharekar for the applicant.

Mrs.S.S. Kaushik, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 18, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. In crime No.I-352/2017 for offence punishable under sections 307, 384 and 504 read with 34 of the Indian Penal Code, sections 25, 3 and 27 of the Arms Act and section 135 of the Maharashtra Police Act registered with Bhiwandi City police station, District Thane, the applicant arrested on October 29, 2017 and charge-sheeted, is seeking regular bail.

3. The prosecution case is, applicant has used firearm to

assault the complainant.

4. Apart from the fact that the firearm is used in the offence in question the statements of eye witnesses are contradictory to each other.

5. Learned APP opposed the bail on the ground that there is one antecedent and also there is recovery of weapons.

6. What is noticed is recovery of the weapons, a pistol and knife from the present applicant, the investigating agency has not called for the forensic science report. Apart from above, eye witnesses have given contradictory versions.

7. So far as criminal antecedent is concerned, the applicant is already released on bail in the said case. In the aforesaid background, in my opinion, the applicant deserves to be released on bail. Hence the order :-

- i) The applicant be released on bail in Crime No.I-352/2017 for offence punishable under sections 307, 384 and 504 read with 34 of the Indian Penal Code, sections 25, 3 and 27 of the Arms Act and section 135 of the Maharashtra Police Act registered with Bhiwandi City police station, District Thane,

upon furnishing P.R. bond of Rs.50,000/- with one or two sureties in the like amount;

- ii) The applicant shall attend the Bhiwandi City police station, District Thane on every 15th day of the English calender month between 10.00 a.m. to 12.00 noon in the present case and also in the case in which he is facing charge-sheet for an offence punishable under section 392 of the Indian Penal Code till the conclusion of trial
- iii) The applicant shall not influence the prosecution witnesses or tamper with the evidence;
- iv) A single default for unreasonable cause would entitled the trial Court to take out proceedings for cancellation of the bail of the applicant;
- v) In case it is noticed that the applicant is involved in similar type of offence, it shall be open for the prosecution to move for cancellation of bail;
- vi) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)