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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2696 OF 2018

Sameer Haribhau Harpude ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Mr.Aniket Nikam I/b. Aashish Satpute for the applicant.

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

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 31, 2019

P.C.:-

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

2. In crime No.119/2015 for offence punishable under sections 364, 365, 385, 395, 117 read with 34 of the Indian Penal Code and sections 3(1)(ii), 3(2) of the Maharashtra Control of Organized Crimes Act, 1999 ('MCOCA' for short) registered with Saswad police station, Pune, the applicant is seeking regular bail.

3. The prosecution case against the applicant is, on May 4, 2015 Meera lodged a complaint that on May 2, 2015 co-accused Amol, through her son-in-law Amar informed about the desire to get married to Divya daughter of Meera and that Amar and Meera were called upon to attend the marriage, for which threats were issued to her. The first informant accordingly informed about the incident to Amar on May 4, 2015 that accused Amol had come along with 10 to 12 persons.

4. Sachin, who happened to be the nephew of complainant Meera was in the meantime kidnapped by accused Amol so as to facilitate his marriage with Divya, daughter of the complainant.

5. So far as co-accused Amol is concerned, there was some transaction between him and the complainant when he was in custody in some other matter. It is the case of the prosecution that accused Amol helped her to prosecute her cause including her enlargement on bail in said offence.

6. As Amol with 10 to 12 persons kidnapped Sachin, as narrated above, the complainant raised complaint with police, as such Sachin was rescued.

7. Mr.Nikam, learned counsel for the applicant submits that but for the single offence against the substantive offence against the applicant, there are no criminal antecedents to infer a *prima facie* involvement of the applicant in the crime in question. He submits that the applicant was arrested on September 7, 2015 as he ran away from the spot of incident from where the kidnapped Sachin was rescued. According to him, the story of the prosecution is, co-accused has disclosed the name of the applicant as an accomplice. He further claims that the case of the applicant is at *par* with that of co-accused Ramdas Govind Wanjale, Amit Suresh Kadam, Pravin Shelar and Akshay @ Akash Patil, who are already ordered to be released on bail.

8. Learned APP though resisted the claim on merits, however concedes that other similarly placed accused are already ordered be released on bail on February 8, 2017 in Bail Application Nos.777/2016 with 673/2016 and 1231/ 2016 and August 10, 2018 in Bail Application No.1083 of 2018.

9. It can be inferred from the material on record that the applicant Sameer was not subjected to test identification parade and that there is no material to infer his *prima facie* involvement in

the crime in question.

10. Considering the *doctrine of parity*, as is claimed by the applicant, in my opinion, the applications needs to be allowed.

Hence the order :-

- i) The applicant be released on bail in Crime No.119/2015 for offence punishable under sections 364, 365, 385, 395, 117 read with 34 of the Indian Penal Code and sections 3(1)(ii), 3(2) of the Maharashtra Control of Organized Crimes Act, 1999 registered with Saswad police station, Pune upon furnishing P.R. bond of Rs.50,000/- with one or more sureties in the like amount;
- ii) The applicant shall furnish his permanent address, cell phone and other details to the investigation agency within two weeks after being released on bail;
- iii) The applicant shall not influence the prosecution witnesses or tamper with the evidence;
- iv) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)