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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 3096 OF 2018**

Santosh Ashok Ughade

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Nitin Pradhan i/b Ms. Shubhada Khot advocate for the
applicant

Mr. N. B. Patil APP for the State

CORAM : NITIN W. SAMBRE, J.**DATE : JANUARY 11, 2019.****P.C.**

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

2 Applicant is seeking regular bail in Crime No. I-201 of 2017 registered with Panchavati Police Station for offence punishable under sections 302, 143, 147, 148, 145 of the Indian Penal Code. He is charge-sheeted alongwith 8 co-accused.

3 Applicant was arrested on 13/07/2017.

4 The learned counsel for the applicant would strenuously urge that prosecution has claimed that there are four eye witnesses to the incident whose statements are recorded at much belated stage for which no convincing explanation is coming forward. According to him, it is also claimed in the F.I.R. that there was previous enmity, however, the said aspect is also not looked into by the investigating agency. He would further add that no specific role is attributed to the applicant in the commission of crime in question. Considering the very genesis of the commission of the offence in question, according to him, a complete improbable story is put forth by the prosecution against the applicant of causing 101 injuries using two weapons by in all 9 accused persons. According to him, application is as such liable to be allowed. He would also claim that other similarly placed co-accused i.e. accused nos. 5, 6 & 7 are already released on bail.

5 The learned APP opposed the claim on the ground that there are 4 eye witnesses to the incident. According to him, the issue of belated recording of statement cannot be considered at this stage of the application to the benefit of the applicant. He submits that the prayer of other two accused for grant of regular bail is already turned down by this Court.

6 Considered rival submissions.

7 In the F.I.R., applicant is specifically named as one of the accused. There is previous complaint and cross-complaint between the applicant and deceased. The complainant is an eye witness to the incident who has immediately after the incident has lodged the complaint and named the applicant as accused with specific role. The other eye witnesses to the incident have also named the applicant as the person directly involved in the commission of crime in question. The statements of witnesses namely Vishal, Rahul and Archana are worth referring to. Another witness namely Vikram Mhaske is also claimed to have witnessed the applicant carrying

blood stained weapon in his hand from the scene of incident. As such, there is strong *prima facie* case against the applicant of his involvement.

8 Apart from above, the weapon seized are referred for chemical analysis and report is adverse to the interest of the present applicant.

9 Other two similarly placed co-accused Jitesh @ Bandu & Santosh have approached this Court with a similar prayer whose request for release on regular bail is already turned down.

10 So far as the case of the applicant of claiming parity with accused nos. 5, 6 & 7 is concerned, the Court below while ordering their release has observed that those accused have not been attributed specific role in the commission of crime in question. That being so, the case of the applicant cannot be treated at par with that of case of accused nos. 5, 6 & 7, rather the case of the applicant is at par with co-accused Jitesh @ Bandu & Santosh.

11 For the aforesaid reasons, I hardly notice any convincing reason which warrants ordering the release of the applicant on regular bail. Application fails, stands rejected.

[NITIN W. SAMBRE, J.]