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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3162 OF 2019**

Asif Khan Usman Khan

.... Applicant.

V/s

State of Maharashtra

..... Respondent.

Mr. Mahendra N. Sandhyanshiv for the Applicant.

Mr. S.V. Gavand, APP for the Respondent/State.

Mr. V.S. Patil, ASI, Chandwad Police Station, present.

CORAM: NITIN W. SAMBRE, J.

DATE: FEBRUARY 12, 2020

P.C.:-

1] Applicant is seeking regular bail in Crime No.I-89 of 2018 which is culminated into Sessions Case No.54 of 2018 for the offence punishable under Section 399 and 402 of the Indian Penal Code and Sections 3 and 4 read with Section 25 of the Indian Arms Act .

2] The case of the prosecution is, on 19/5/2018, while carrying out routine check/surveillance, upon physical verification of the vehicle in which Applicant was travelling, incriminating material viz. Desi Pistol was recovered, particularly from the present Applicant.

3] Learned Counsel for the Applicant submits that but for recovery of aforesaid weapon, there is no independent material available on record to infer prima facie involvement of the Applicant in the crime.

4] Learned APP for the State submits that Applicant is already an accused in Sessions Case No.7 of 2012 pending on the file of the Sessions Court, Malegaon in which execution of non-bailable warrant is pending.

5] Learned Counsel for the Applicant submits that, if released, Applicant shall regularly attend Sessions Case No. 7 of 2012, so also Sessions Trial No. 54 of 2018 in which he was apprehended on 19/5/2018. Since aforesaid statement is made on instructions, same is accepted as an undertaking to this court.

6] Considering the fact that Applicant is behind bars for more than 22 months, it will be appropriate to order his release, particularly having regard to the fact that he is available for prosecution.

7] As such, Applicant is directed to be released on bail on P.R. Bond

of Rs 50,000/- with one or two local sureties in the like amount.

8] Applicant shall not try to influence the witnesses or tamper with the evidence.

9] As per aforesaid undertaking, Applicant shall regularly appear in Sessions Trial No.54 of 2018 and Sessions Case No. 7 of 2012 pending on the file of Sessions Judge, Malegaon. If this undertaking is breached, Court below shall pass appropriate order for taking him in custody by cancelling his bail.

10] In case if it is noticed that Applicant is involved in any subsequent offence(s), prosecution will be at liberty to move for cancellation of bail before the Court below, even in the present case.

11] Application stands allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)