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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO.1168 OF 2020**

Mr. Nahushkumar Dharma Koli

...Applicant

V/S

The State of Maharashtra  
(at the instance of Panvel Taluka  
Police Station)

...Respondent

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Mr. Satyaram R. Gaud, for the Applicant.

Mr. A. A. Takalkar, APP for the Respondent-State.

API Mr. Milind Phadtare, Panvel Taluka Police Station, Navi Mumbai,  
present.

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**CORAM: NITIN W. SAMBRE, J.**

**DATE: JULY 14, 2022**

P.C.:-

1] Heard.

2] This is an application under Section 439 of Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No. 411 of 2019 pending before the Sessions Court at Panvel for offences punishable under Section 302, 201 r/w. 34 of the Indian Penal Code and Section 3, 25, 30 of Indian Arms Act.

3] Allegations against the Applicant are, Applicant was having illicit

relations with the wife of the deceased. As such, alongwith co-accused Dharamveer, he has committed an offence.

4] Contentions of Counsel for the Applicant are, after charge is framed evidence is recorded. Other co-accused namely Dharamveer against whom there is strong evidence available is already ordered to be released on 04<sup>th</sup> August 2021 in Bail Application No.837 of 2019. As such, Applicant deserves to be released on bail.

5] Learned APP, on instructions from Investigating Officer, would urge that role attributed to the Applicant is more aggressive in nature than the role attributed to Dharamveer. According to her, Dharamveer participated in the commission of offence at the behest of present Applicant and same can be very much inferred from the investigation carried out.

6] Fact remains that as against co-accused there is direct evidence available on record about recovery of the fire arm used in the commission of crime, blood stained clothes etc. As far as present Applicant is concerned, similar nature of evidence is claimed to have been available against him viz vehicle used in commission of crime which was discovered under section 27 of the Evidence Act and also empty cartridges of fire arms.

7] As far as, the aforesaid resistance by learned APP is concerned, even if it is considered that from the custody of the Applicant the

vehicle used in the commission of crime having blood stains was seized so also empty cartridges, it can be noticed that other similarly placed accused has already been ordered to be released by this Court. Charge against the Applicant is already framed and trial is at an advance stage as the evidence of the witnesses is recorded. Applicant has suffered incarceration for more than four years. In that view of the matter, I am of the opinion, that case for grant of bail is made out.

8] Under the circumstances, Application is allowed on the following terms:

(i) The Applicant is ordered to be released on provisional cash bail of Rs.50,000/- for a period of three weeks from the date of release, within which he shall furnish one or two solvent sureties in the like amount ;

(ii) The Applicant is ordered to be released on bail on the Applicant furnishing PR. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount;

(iii) The Applicant shall attend Panvel Taluka Police Station, on first Monday of every month till conclusion of the trial ;

(iv) The Applicant shall not interfere with the witnesses or tamper with the evidence in any manner ;

(v) The Applicant shall keep the Sessions Court informed of his local / permanent address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;

9]            Application is accordingly disposed of.

( NITIN W. SAMBRE, J. )