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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.3014 OF 2023

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Shahid Siraj Qureshi
V/s.
State of Maharashtra

... Petitioner

... Respondent

Ms. Sana Raees Khan a/w Mr. Aditya Parmar, for
Applicant.

Mr. P. H. Gaikwad, APP, for State/Respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 5, 2024

P.C.:

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.P.C.') by the applicant seeking release in connection with C.R. No.399 of 2020 registered with Khadki police station for offences punishable under Sections 307, 143 147, 148, 149 of the Indian Penal Code (for short 'IPC'), under Section 25 (4) of the Arms Act and under Section 37 (1) read with Section 135 of the Maharashtra Police Act, Section 135 of Criminal Law Amendment Act.

2. The First Information Report registered on 23 December 2020 contains allegations that the applicant along with five to six others assaulted the victim using axe, knife and wooden stalks.

3. The applicant was arrested on 25 January 2022.
4. The Sessions Judge by order dated 30 July 2022 rejected the bail application under Section 439 of the Cr.P.C. The Applicant preferred first bail application before this Court which was withdrawn unconditional on 20 June 2023.
5. In the present application, according to the learned Advocate for the applicant, the applicant is in custody for period of more than three years. The maximum punishment for offence under Section 307 of IPC is liable for imprisonment which made extend up to 10 years and if hurt is caused to any person by such act the offender shall be liable for imprisonment for life or such punishment is imprisonment for life.
6. Apart from the fact that, on earlier occasion, the applicant withdrew the application unconditionally, on perusal of the report, it appears that the incident occurred at 17:45 hours on 21 December 2020. The report lodged at 0:40 hours on the day of incident. The role attributed to the applicant for assaulting the victim on his neck, corresponds in the injury certificate.
7. The injury certificate placed on record, shows that only one injury on victim's neck having width of 6 cm long and 3 cm deep, caused by sharp edged weapon. The submission made by the Advocate for the applicant is that other co-accused have been released on bail and the applicant is entitled to be released on bail on the principle of parity. The role attributed to other persons, were assaulted by using wooden rods and knife. In so far as the other accused carrying knife is attributed role of assault on the

back of victim. However, corresponding injury on the back of victim is absent in the injury certificate relied upon by the prosecution. Hence, applicant is not entitled to be released on the point of parity as the role attributed to the applicant corresponds with injury shown in the injury certificate.

8. Learned APP has placed on record, a chart showing that in addition to the present report, there were 15 more crimes including offences under Section 302 IPC have been registered against the applicant.

9. The applicant is in jail for three years cannot, in the facts of the case, be sole factor for release of applicant on bail in view of 15 antecedents placed on record. Considering the nature of injury certificate, material placed on record along with antecedents, no case for release of applicant on bail is made out.

10. The application is, therefore, rejected. No costs.

(AMIT BORKAR, J.)