

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.6882 of 2014

Hanif s/o. Razzak Pinjari
And Others.

.. Applicants.

Versus

The State of Maharashtra.

.. Respondent.

Shri. Vivek M. Chavan, Advocate, for applicants.

Shri. N.B. Patil, Additional Public Prosecutor, for
respondent.

CORAM: T.V. NALAWADE, J.

DATE : 12th FEBRUARY 2015

ORDER:

1) The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation. Learned counsel for the applicants has produced copy of order made in favour of accused Shaikh Mubin by this Court in Criminal Application No.6643/2014 and he has submitted that he is claiming bail on the ground of parity also.

2) The incident in question took place on the night between 13th July 2014 and 14th July 2014. Sanjay Jaibhay, driver of a truck was transporting steel in his truck. He has made allegations that at about midnight when he was sleeping in his vehicle near Anjali Petrol Pump near village Sajapur on Mumbai Highway, four persons entered in the vehicle, they assaulted him, then detained him and they took away the vehicle along with the material towards lonely place. There he was left and the truck was taken away with the material. He gave report that material worth Rs.4.2 lakh and the truck were stolen by those four persons.

3) During investigation Shaikh Mubin and present applicants came to be arrested. Shaikh Mubin had already sold the steel to one Atul. The stolen property can be said to be recovered at the instance of Mubin. Mubin was identified during test identification Parade. This Court granted bail to Mubin by order dated 28th January 2015 as he had no bad antecedents and he has permanent place of residence.

4) The material against the applicant Hanif shows that he is not identified. No recovery of stolen property is made from him. Learned APP submits that he has record of bad antecedents.

5) The applicants, Zawed and Manjur are identified by the complainant. There is no bad antecedents record against them and nothing is recovered from them. Learned APP submits that during test identification parade these two accused gave threats of life to the complainant and the complainant has given report accordingly. On that basis one more crime is registered against these applicants. Learned counsel for the applicants submits that if threat was given during test identification parade, the Executive Magistrate ought to have recorded this incident in the test identification parade but the incident was not recorded by the Executive Magistrate.

6) By way of precaution this Court directed the investigating officer to verify about the permanent residences of the applicants. It is stated that they have

permanent residence at the addresses given by them and their relatives own landed property. In view of nature of material available against Zawed and Manjur this Court holds that bail can be granted to them. It can be said that there is no material against Hanif and even he had bad antecedents he is entitled to bail. In view of the aforesaid circumstances this Court holds that on furnishing heavy surety bail can be granted to the applicants.

7) In the result, the application is allowed. The applicants Nos.2 and 3 - Zawed Rasul Pinjari and Manjur Rasul Pinjari are to be released on bail in Crime No.I-174/2014 registered in MIDC Waluj Police Station for offence punishable under section 392 read with section 34 of the Indian Penal Code on their furnishing PR and SB of Rs.50,000/- (Rupees fifty thousand) by each with one solvent surety in the like amount by each of them. The applicant No.1 - Hanif Razzak Pinjari is to be released on bail in the aforesaid crime on his furnishing PR and SB of Rs.30,000/- (Rupees thirty thousand) with one solvent surety of the like amount. The applicants are not to tamper with prosecution witnesses. They are not to

commit similar offences. They are not to go to the vicinity of the place of residence of the witnesses. They are not to leave the Maharashtra State without permission of the Aurangabad Sessions Court till disposal of the case.

Sd/-
(T.V. NALAWADE, J.)

rs1