

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 37 OF 2015**

|                                         |               |
|-----------------------------------------|---------------|
| Rakesh Janardan @ Tatya @ Santosh Surve | ...Applicant  |
| Versus                                  |               |
| The State of Maharashtra                | ...Respondent |

Mr. R. P. Yadav for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

PI Mr. Diwakar Sawant for Aarey Police Station is present

**CORAM : REVATI MOHITE DERE, J.**

**TUESDAY, 17TH MARCH, 2015**

**P.C. :**

1. Leave to amend. Amendment to be carried out forthwith.
  
2. Heard learned Counsel for the applicant and the learned A.P.P.
  
3. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 97 of 2014 registered with the Aarey Police Station, for the alleged offences punishable under Sections 394, 506 (ii), 511, 34 of the Indian Penal Code and Sections 3, 25 of the Arms Act and 37(1)(A), 135 of the Bombay Police Act.

4. The incident in question has taken place in the intervening night of 18<sup>th</sup> August, 2014 and 19<sup>th</sup> August, 2014 at about 2:40 a.m. It is alleged by the complainant, who is an auto rickshaw driver that the present applicant along with the co-accused Swapnil had taken the auto rickshaw on hire. It is alleged that as the rickshaw was proceeding, the co-accused Swapnil pulled out a knife and threatened the auto rickshaw driver i.e. the complainant and asked him to hand over money and his mobile phone. Just then, seeing the rickshaw with the lights on, a police patrolling vehicle stopped at the spot. It is alleged that the applicant along with the co-accused Swapnil ran away from the spot. Co-accused Swapnil was apprehended on the spot. Knife and one battery was recovered at the instance of co-accused Swapnil.

5. Learned Counsel for the applicant contended that as far as the applicant is concerned, he was arrested after 17 hours of the incident. He submitted that there is no material whatsoever in the entire charge-sheet to connect him with the alleged offence. He submitted that neither is there any recovery nor any identification parade was held in the said case.

6. Learned A.P.P. opposed the bail application. She does not dispute the fact that identification parade has not been held and that there is no recovery as against the present applicant. Learned A.P.P states that there are no antecedents as against the applicant.

7. Perused the charge-sheet, the F.I.R and the statements of the police officers who were on patrolling duty, who apprehended the co-accused. Admittedly, the identification parade was not held in the said case nor is there any recovery at the instance of the applicant. Considering the material on record, the applicant is entitled to be enlarged on bail on the following terms and conditions :

**ORDER**

(i) The applicant Rakesh Janardan @ Tatya @ Santosh Surve be released on bail in connection with case No. C.R. No. 97 of 2014 registered with the Aarey Police Station, on executing PR Bond in the sum of Rs. 15,000/- with one or two solvent sureties in the like amount;

- (ii) The applicant shall attend the Aarey Police Station once in a month on the first Saturday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;
- (iii) The applicant shall not tamper or attempt to contact any witness concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Ulhasnagar Police Station;
- (v) The applicant to cooperate with the conduct of the trial;
- (vi) The applicant shall give an undertaking with regard to condition Nos. (ii) to (v) in the trial Court within a period of one week from the date of his release.

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The aforesaid observations are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. Parties to act on the authenticated copy of this order.

**REVATI MOHITE DERE, J.**