

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1045 OF 2015**

Babu Pakimuttu Nadar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Mohd. Amin H. Solkar for the Applicant

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

API Mr. Nilkanth Bagale from Kopari Police Station, Thane City is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 28th SEPTEMBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-25 of 2015 registered with the Kopari Police Station, for the alleged offences punishable under Sections 395, 143, 147 and 149 of the Indian Penal Code ('IPC') and under Sections 4 and 5 of Gambling Act.

3. Learned Counsel for the applicant submits that the applicant is entitled to be enlarged on bail on the ground of parity, inasmuch as, similarly placed co-accused have been enlarged on bail by this Court (Coram : Smt. Sadhana S. Jadhav, J.) vide order dated 23rd July, 2015 passed in Criminal Bail Application No. 1008 of 2015.

4. Learned Counsel for the applicant submits that *prima facie* no offence under Section 395 of the IPC is disclosed. He submits that the applicant is in custody since February, 2015 and that the investigation is complete and charge-sheet is filed.

5. Learned A.P.P under the instructions of the Investigating Officer, who is present in Court, submits that although Section 395 of the IPC is not attracted *qua* the applicant, the fact remains that the applicant was involved in the act of rioting and has also been charged under Sections 4 and 5 of the Gambling Act. She submits that there are 44 cases registered *qua* the applicant under the Gambling Act and other bodily related offences.

6. Perused the papers. *Prima facie*, it is doubtful whether Section 395 of the IPC would be attracted *qua* the applicant, in the facts of the present case. Merely because there are antecedents, would not be a ground to deny bail to the applicant. The co-accused who are similarly placed as the applicant, have been enlarged on bail by this Court (Coram : Smt. Sadhana S. Jadhav, J.) vide order dated 23rd July, 2015. The only allegation *qua* the applicant in the present C.R is that of rioting and under Sections 4 and 5 of the Gambling Act.

7. Considering the aforesaid facts and the fact that the investigation is complete and charge-sheet is filed, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first and third Saturday of every month between 10:00 a.m. to 11:00

a.m. for a period of six months from the date of his release and thereafter on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the witnesses or any person 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 concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) 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 Application is allowed in the aforesaid terms and is accordingly disposed of.
9. It is made clear that the observations made herein 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.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.

CERTIFICATE

Certified to be true and correct copy of the original signed Order.
