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

CRIMINAL BAIL APPLICATION NO.1057 OF 2015

Murgadhi Shamukhasudas Tewar @Kumar Anna ... Applicant

Vs

The State of Maharashtra

... Respondent

Ms.Anjali Patil, for the Applicant.

Ms.P.P.Shinde, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 14th JULY, 2015

(IN CHAMBERS)

P.C. :

1. Heard the learned counsel appearing for the parties.
2. This is the second bail application. The first bail application being Criminal Bail Application No.208 of 2015, was dismissed as withdrawn vide order dated 4th March, 2015. It is recorded in the said order that after arguing for some time, the learned counsel for the applicant seeks leave to withdraw this application.
3. Learned Counsel for the applicant states that the trial has not commenced and hence she seeks to argue the above application on merits.

She submitted that the complainant – Deep Tushar Chheda has stated that four unknown persons came and snatched two rexin bags containing an amount of Rs.30,00,000/-. She submitted that the description of the four suspects have been given ; i.e. the description of the person who yielded a koyta ; the description of the person who threatened with a revolver ; the description of the person who was sitting in the car and the description of the person who was driving the vehicle. She submitted that the description of the four persons were distinct and different as set out in the complaint. She submitted that the present applicant came to be arrested on 3rd August, 2014 and the identification parade was held on 20th September, 2014. She submitted that in the supplementary statement of the complainant which was recorded on 20th September, 2014, after holding of the Identification Parade, the complainant has stated the role of the present applicant as being the person who was driving the vehicle, whereas in the identification parade, he has given the description of the person as being the person who had snatched the rexin bags from his hands. She submitted that the identification parade has not been held in accordance with the procedure set out in the criminal manual.

4. Learned APP opposed the bail application. She submitted that there is no change of circumstance since the filing of the first bail application, which was withdrawn by the applicant only in March, 2015. She submitted that the present applicant has been identified in the identification parade and that whether the applicant was driving a vehicle or was the person who snatched the rexin bags is a matter which will be decided at the trial. She submitted that even otherwise, charge has been framed in the present case and witness summons have been issued. The said statement is disputed by the learned counsel appearing for the applicant.

5. Perused the charge-sheet in particular the statement of the complainant, the supplementary statement and the identification parade. The first bail application was dismissed as withdrawn after hearing the learned counsel for the applicant. The only change of circumstance is that as of today trial has not commenced. The applicant has been identified in the identification parade. Although, there may be some discrepancy in the role assigned to the applicant but the fact remains that the applicant has been identified as one of the persons present at the time of the alleged

offence. The learned counsel has not pointed out in what way the guidelines pertaining to holding of Identification Parade have been flouted.

6. Considering the nature of allegations and the fact that charge has been framed, this is not a fit case for granting bail to the applicant.

7. Hence, the Application for bail is rejected and disposed of as such.

8. It is made clear, that the observations made herein, are prima-facie, for the purpose of deciding this application and the trial court shall decide the case on its own merits, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.