

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1084 OF 2015

Shensha Riyaz Khan

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Aniket Vagal for Applicant
Mr. Arfan Sait APP for the State.
Mr. M. K. Gharat, P.S.I. Khalapur
Police Station

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : SEPTEMBER 29, 2015.

PC :

Heard. This is a subsequent application under section 439 of Code of Criminal Procedure, 1973. On 02/03/2015, application filed by the present applicant was withdrawn. It was never brought to the notice of this Court that present applicant was not identified at test identification parade. Instead, a statement was made that accused has been identified on the ground that present applicant was arrested soon after the incident. Applicant is arrested on 21/03/2015 in crime no. 43 of 2014 registered at Khalapur Police Station for offence punishable under section 395 r/w 34 of Indian Penal Code.

2) The co-accused namely Fakriali Mansuri and Jumman Ali were

ism

enlarged on bail by this Court on 02/03/2015 as it was clear from the records that they were arrested on suspicion and that they were transferred from crime no. 48 of 2014 registered at Dehu Road Police Station.

3) It is the case of prosecution that on the day of incident, the watchman had heard the noise of two tempos coming towards the godown and that the said tempos had left the godown. According to prosecution, present applicant happens to be driver of tempo MH 04 JC 384. It appears from the records that applicant was taken for test identification parade, however, witnesses did not remain present on three occasions and therefore, there is no question of identification of present applicant. There are no criminal antecedents. Learned counsel for the applicant, upon instructions submits that applicant is a young man who is hardly 24 years old. That he does not have permanent job but he works as driver and goes on duty whenever his services are required either on private taxis or any other vehicle. Learned counsel submits that by virtue of doctrine of parity, present applicant is also entitled to be enlarged on bail.

4) It is made clear that applicant is being granted bail by virtue of doctrine of parity. The fact that he has not been identified at the test identification parade, coupled with the fact that he has no criminal antecedents, this Court is

of the opinion that applicant deserves grant of bail, moreover he has been in custody since 21/03/2014.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.
- (iii) Applicant shall report to concerned police station on 1st and 3rd Sunday of each month, till the conclusion of trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)

CERTIFICATE

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