

Anand

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

BAIL APPLICATION NO.2006 OF 2015

1. Jagdish I. Yadav .Applicants
2. Zulfikar Gulam Hussain Shaikh

v/s.

The State of Maharashtra .Respondent

Ms Nazima Y. Malik (Siddique), Advocate, for the
Applicants

Mr.S.S.Pednekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 17.10.2015

P.C.

. Heard learned counsel for the
applicants and the learned APP for the
respondent – State.

2. By this application, the applicants
seek their enlargement on bail in connection
with C.R.No.49 of 2015 registered with the
Domestic Airport Santacruz Police Station,
Mumbai, for the alleged offences punishable

under Sections 170, 341 & 396 of the Indian Penal Code.

3. The incident in question has taken place on 28.08.2015. It is alleged by the complainant that on the said date at about 11.10 p.m., four persons came in an Innova Car and obstructed his vehicle from proceeding towards the Cargo area. According to the complainant, the said persons disclosed to him that they were Sales Tax officers and pulled the mobile of the complainant's friend. It is alleged that the said persons attempted to take the Gold articles which were kept in the complainant's Car.

4. Learned counsel for the applicants states that the allegations are against the accused, who were in the Innova Car and not against the present applicants, who were in a Swift Car. She submits that admittedly, even

according to the prosecution, the present applicants were not in the Innova Car but in the Swift Car. She submits that the complainant has not disclosed anything about the persons present in the Swift Car or about a Swift Car in the FIR nor has he given the description of the persons in the Swift Car. She submits that the complainant has not attributed any overt act to the persons in the Swift Car in the commission of the offences.

5. Learned APP does not dispute the fact that the applicant were not in the Innova Car. He submits that although in the FIR, there is no mention of a Swift Car or about the persons present in the Swift Car, subsequently, the complainant has disclosed that there was a Swift Car.

6. Perused the papers. It is not disputed

that the said persons were not in the Innova Car and were not amongst the persons who got down from the Innova Car and ran towards the complainant. Considering the nature of allegations against the applicants and the fact that the applicants have been in custody since their arrest i.e. 07.09.2015, the applicants are enlarged on bail on the following terms & conditions :

ORDER

(i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- each with one or two sureties in the like amount;

(ii) The applicants shall attend the Domestic Airport Santacruz Police Station, Mumbai on every Saturday between 11:00 a.m. to 12:00 noon till the filing of the charge-sheet;

(iii) The applicants shall not tamper or attempt to influence or contact the complainant,

witnesses or any person concerned with the case;

(iv) The applicants shall inform their 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 applicants 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 applicants' bail.

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

8. 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.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)