

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAILAPPLICATION NO. 2725 OF 2014

Rizwan Mohammad Eliyas Khan ... Applicant
vs.
The State of Maharashtra ... Respondents

Mr.Harshad Nimbalkar, Advocate for the applicant
Mrs. Veera Shinde, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 26th February, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 13.7.2014 in Crime No.111 of 2014 registered at Khandala Police Station for the offence punishable under Section 395 of IPC.

2. It is the case of the prosecution that on 22.6.2014 one Sanjay Shah had lodged a report at the police station alleging therein that he had been along with his family to Veer Dharan. When they were returning, two unknown persons had apprehended them and had stolen the valuables from the person of his wife and the cell phone hand sets. They had also taken away keys of the car of the applicant. On the basis of his report, offence was registered against unknown

persons. In the course of investigation, the present applicant was arrested on 13.7.2014.

3. The learned APP submits that the applicant has been identified at the test identification parade.

4. The learned counsel for the applicant submits that the applicant was working with the College as a teacher. He has no criminal antecedents. It is further submitted that the two co-accused have been granted bail by the Sessions court. It is also submitted that although the applicant has been identified at the test identification parade, there is no specific statement of the witness showing the reason for identification or the act attributed to the applicant at the time of incident. The learned counsel has also drawn attention of this Court to the contentions in the FIR wherein the applicant has given description of only one person and therefore, according to the learned counsel, it cannot be presumed that the complainant had in fact seen the co-accused. There is no recovery at the instance of the applicant. Be that as it may, the applicant has been in jail since 13.7.2014. Hence, the applicant deserves grant of bail.

ORDER

(i) The application is allowed. The 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.

(ii) The applicant shall report to the Khandala Police Station on every Sunday between 10 a.m. to 12 noon till the conclusion of the trial.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)