

Anand

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

BAIL APPLICATION No.299 OF 2016

1. Dostana Bhimrao Jadhav .Applicants
2. Mahavir alias Chimanya
Uttam Khomane
3. Rajendra alias Raju
Mahadev Bhale

Vs.

The State of Maharashtra .Respondent

Mr.Rupesh A. Zade, Advocate, for the Applicants
Mrs.G.P.Mulyekar, APP, for the Respondent –
State

WITH

BAIL APPLICATION No.183 OF 2016

Yuvraj Kushaba Mane .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Kuldeep Patil i/b. Mr.Prashant Hagare,
Advocate, for the Applicant
Smt.Veera Shinde, APP, for the Respondent –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.04.2016

P.C.

. Heard learned counsel for the Applicants and the learned APPs for the Respondent – State.

2. By these Applications, the Applicants seek their enlargement on bail in connection with C.R.No.137 of 2015 registered with the Walchandnagar Police Station, District – Pune(Rural), for the alleged offence punishable under Section 395 of the Indian Penal Code.

3. The incident in question has taken place on 15.09.2015 at about 11.00 a.m.. The Complainant is the driver of the Omni Maruti van, which would transport the women workers from Kurbavi, Chandrapuri, Dombalwadi to Insofer Manufacturing Pvt. Ltd. for work and back home again. He has stated that on return back home, when the van reached village Tavashi, one motor cycle came and stopped the Omni car. He has

stated that four persons, aged between 25 to 30 years came there, pulled him out and started assaulting him and that thereafter, the accused threatened him and all the 13 lady workers, who were in the said Omni car, snatched their mobiles, cash and Gold ornaments, locked them in the car and then went towards village – Tavashi. Pursuant to the said incident, the Complainant lodged the aforesaid complaint, alleging the aforesaid offences as against unknown persons.

4. Learned counsel for the Applicants submitted that although, the Applicants have been identified in the identification parade, they could not have been identified, as according to the Complainant and witnesses, the accused had covered their faces. They submitted that recovery of cash is unidentifiable and as such, recovery of cash is of no consequence. They further submitted that neither the complainant nor the witnesses had given the

description of the Applicants in their statements and that the possibility of the Applicants being seen is doubtful, considering that the incident had taken place at 11.00 p.m.

5. Learned APPs opposed the Bail Applications. They submitted that although, the Complainant had stated in the FIR, that the accused had come there with their faces covered, statements of some of the witnesses i.e. of Sou.Kanchan Ramchandra Chavan and Sou. Deepali Pradeep Zende and others clearly shows, that although the accused had come to the spot with their faces covered, they had uncovered their faces, when they left the spot. They submitted that there is recovery of cash, at the instance of accused No.3-Dostana Jadhav and accused No.4 -Yuvraj Mane. They submitted that as far as the accused No.6-Raju Bhale is concerned, there is recovery of two mangalsutras, one mobile and a motor cycle, at his instance. They submitted

that as far as the accused No.5-Mahavir Khomane is concerned, there is no recovery qua the said Applicant. Learned APP submitted that as far as the Applicants in B.A.No.299 of 2016 are concerned, there is one antecedent against each of the Applicants.

6. Perused the papers. All the Applicants have been identified by more than 4-5 witnesses. Although, the witnesses have in the earlier part of the statements stated, that the accused had come with their faces covered, later, in those very statements, they have stated that when the accused left the spot, they had removed the handkerchiefs, from their faces and hence had seen the accused and could identify them. There is recovery against some of the Applicants and there are antecedents against the Applicants in B.A.No.299 of 2016 which are similar in nature.

7. Considering the nature of allegations, this is not a fit case to enlarge the Applicants on bail. Accordingly, the Applications stand rejected.

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.

(REVATI MOHITE DERE, J.)