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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1593 OF 2015

Mr. Keshavsingh Padmasingh Vishwakarma

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Anil Kamble for applicant.

Ms. M.H. Mhatre, APP for the State.

CORAM: A.S. GADKARI, J.

DATE : 8th January 2016.

P.C.

1 The applicant is seeking bail in CR No.159 of 2014 registered with Badlapur (West) Police Station, District-Thane under Sections 395, 457 and 342 of the Indian Penal Code.

2 The complainant Smt. Charushila Karnik has lodged the first information report on 7.11.2014. In the said first information report, it is stated that on 6.11.2014 she along with her daughter went for sleep at about 11.00 p.m. At about 2.30 a.m. on 7.11.2014, she heard the sound of some persons speaking in low tone due to which she was awoken. At that time all of a sudden four persons entered into her bed-room. One person flashed

torch light on her face. The said person thereafter tied the hands of the complainant and her daughter and thereafter committed robbery of the valuable articles from the house. In the said valuable articles one Micromax Canvas Doodle mobile tab was also stolen by the said persons. After the said persons left the premises, the complainant noticed that the grill of the window from toilet was broken and the said persons entered into the house, from the said window. In the premise, the first information report was lodged.

3 During the course of investigation, the police arrested the present applicant and a mobile phone having black colour body of Micromax bearing Model A-102 was discovered at the instance of the applicant. After completion of the investigation, the chargesheet has been filed by the police.

4 The learned Counsel for the applicant submitted that in the first information report the complainant has given description of the alleged mobile phone as “Mobile Tab Micromax Company having Canvas brand, Doodle-3 bearing IMEI No.911363952666055 with SIM of TATA Docomo bearing No.7276824507. However, while effecting the discovery at the instance of applicant, police have recovered mobile phone having black colour body of Micromax Model-A-102. He further submitted that in

the entire chargesheet, it is no where stated that IMEI number of the Mobile Tab mentioned in the complaint and the Mobile phone discovered at the instance of the applicant is with the same and similar IMEI number. He further submitted that the Investigating Agency has not conducted test identification parade and except the discovery of the aforesaid mobile phone (A-102 Micromax), there is no other circumstance against the applicant in the entire chargesheet.

5 I have perused the entire chargesheet and I find substance in the submission made by the learned Counsel for the applicant. The learned Trial Court while rejecting the application for bail of the applicant by its order dated 2.5.2015 in paragraph-12 has observed that the applicant has not produced any document showing his permanent residence address. That he has also not given his address of Nepal therefore the learned Trial Court rejected the application of the applicant. The applicant has annexed the photo copy of the Adhar Card of himself and his two sons. The Investigating Officer, with a view to verify the genuineness of the said Adhar Card, personally visited the premises and found that the wife of the applicant was staying there with children prior to six months from today. Since the applicant is in jail, the said tenanted premises was to be vacated and as of today one Rambahadur Bhisht is residing there.

6 As the applicant has made out the case for his release on bail, I am of the opinion that stringent conditions can be imposed upon him to secure his presence at the time of trial.

Hence, the following order:

(i) The applicant be released on bail in CR No.159 of 2014 registered with Badlapur (West) Police Station on his furnishing PR bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(ii) The Trial Court is hereby directed to verify the genuineness of the documents of sureties submitted by the applicant before releasing him on bail

(iii) After his release from jail, the applicant shall attend the Badlapur (West) Police Station on every first Monday of the month between 11.00 a.m. to 1.00 p.m.

(iv) The applicant shall not tamper with prosecution evidence and/or influence the prosecution witnesses.

(v) It is made clear that even single default in complying with the conditions will attract the cancellation of his bail.

7 The application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)

