

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2027 OF 2016

Nilesh Khandu Gaykhe	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr.S.V.Kotwal i/b Mr. Vishal Laxman Kolekar, Advocate for the applicant.
Mr. Vinod Chate, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 5th October, 2016.

P.C.

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 11.4.2016 in Crime No.63/2016 registered at Khalapur Police Station, Dist. Raigad for the offences punishable under Sections 395, 363 of IPC and under Sections 4, 25 and 27 of the Indian Arms Act.

2. It is the case of the prosecution that on 1.3.2016, Arun Sampat Darane lodged a report at the police station alleging therein that on 29.2.2016, he had loaded his truck with MM Steel pipes and had proceeded towards Nashik. He had reached Pune-Mumbai Highway near Khalapur, he

had parked his truck in front of Rishab Hotel. There were several trucks parked there. he had halted there for rest and had requested the watchman to wake him up at about 2 a.m. he had left the keys to the steering. On 1.3.2016, at about 1 a.m., some people had entered into the truck. The driver was assaulted. They started the truck. There were about 7 – 8 people. Thereafter, he had succeeded in rescuing himself. he had attempted to save himself. The offence was registered against unknown persons. The goods worth Rs.11,43,924/- were looted. In the course of investigation, the complicity of the present applicant had surfaced and he was arrested on 11.4.2016. The investigation is completed and charge-sheet is filed.

4. The learned counsel for the applicant submits that the test identification parade was conducted and the complainant has failed to identify the applicant in the test identification.

5. As against this, the learned APP submits that the evidence in the form of test identification parade is only a corroborative piece of evidence. It is submitted by the learned APP that at the time of incident, the first informant was in a state of shock and it may not have been possible to identify 7 – 8

people. Be that as it may, the learned APP further submits that similar offences are registered against the applicant who is a habitual offender.

6. Taking into consideration the nature of allegations and the criminal antecedents of the applicant, the applicant does not deserve to be enlarged on bail at this stage. However, the learned Sessions Judge is requested to make an endeavour to conclude the recording of substantive evidence within nine months from the date of framing of charge.

7. The observations made hereinabove are restricted to an application under Section 439 of Cr.P.C. and shall not be considered for the purpose of discharge application or at the time of trial.

The Application is dismissed.

(SMT.SADHANA S.JADHAV, J.)