

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2355 OF 2015**

Nayeem Mashiuddin Manihar

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Amit Munde for the Applicant

Mr. Arfan Sait, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 7th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 525 of 2014 registered with the Chakan Police Station, Pune (Rural), for the alleged offences punishable under Sections 395, 341, 342, 427, 412 r/w 34 of the Indian Penal Code.

3. The incident in question has taken place on 31st October, 2014. The complainant is one Mohansingh Tulshiramsingh Rajput. He has alleged that on 31st October, 2014, when he was discharging his duties as a security guard at Kishor Pump Pvt. Ltd. and was sitting with another security guard, 7 to 8 persons came there at about 3:40 a.m. The said persons are alleged to have been armed with wooden logs, sickles and iron rods. It is alleged that some of the accused assaulted them and threatened to kill them. The accused are alleged to have taken away copper cable wires, gun metal bush, 3 LCD monitors and 2 Laptops.

4. Learned Counsel for the applicant states that the only allegation against the applicant is that he sold copper wires to co-accused and that the same were recovered at his instance. He submitted that the applicant has been identified in the identification parade by the complainant, despite the fact that the complainant had in his supplementary statement dated 6th November, 2014, stated that all the accused persons had come to the spot with their faces covered. He submits that even the other three eye-witnesses have disclosed the same i.e. the faces of the accused were covered. He submitted that even the Test Identification Parade was

held after 49 days and that out of three witnesses, only one has identified the applicant. He submitted that there are no antecedents *qua* the applicant.

5. Learned A.P.P opposed the bail application. He submits that the applicant has been identified by the complainant and there is recovery of copper wires at his instance.

6. Perused the charge-sheet. According to the eye-witnesses, all the accused had come to the spot with their faces covered. It appears that after 49 days, the applicant has been identified. There was recovery of copper wires at the instance of the applicant, which has been identified by the complainant. There are no antecedents *qua* the applicant. All the accused have been enlarged on bail and the possibility of trial commencing in the immediate near future appears to be meek. Accordingly, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two local sureties in the like amount;

(ii) The applicant shall not leave Navi Mumbai, Thane and Mumbai, without the prior permission of the trial Court, unless it is for attending the trial Court, on Court dates and for attending the Police Station;

(iii) The applicant shall attend Chakan Police Station on the first Saturday of every month between 11:00 a.m. to 12:00 till the conclusion of the trial;

(iv) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall inform his latest place of residence and mobile contact number within one week of his release, 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;

(vi) The applicant shall cooperate with the conduct of the trial and shall attend the Court hearing on every date;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the Trial Court within one week of his release;

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's 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.

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

REVATI MOHITE DERE, J.