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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2498 OF 2015**

Daya Shankar Shridutta Prajapati	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.O.A.Siddiqui a/w Mr.Kamran Shaikh, Mr.Ashfaq, for the Applicant

Ms.R.M.Gadhvi, A.P.P for the Respondent-State

API – S.B.Lahane, L.C.B. Nashik Rural.

***CORAM : REVATI MOHITE DERE, J.
DATE : 21st MARCH, 2016***

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 40 of 2015, registered with the Vadivarhe Police Station, Nashik for the alleged offences punishable under Sections 395, 342, 120B of the Indian Penal Code and under Sections 3/25 of the Arms Act.
3. According to the complainant – Sameer M. Pinjari on 24th

April, 2015, he was proceeding in a vehicle, owned by 'Sequel Logistic Company' and which was transporting 58 kg gold from their office towards Shirpur Gold Refinery. He has stated that when his vehicle reached near Kawati Phata on Mumbai-Agra Road, one vehicle having a fake number plate and an amber red light obstructed his vehicle. He has alleged that the persons in the said vehicle disclosed their identity as police and stated that they wanted to take search of the vehicle, as they suspected that the first informant was carrying stolen property. The complainant has alleged that he along with others, were threatened and assaulted and a pistol was pointed at them and that he was tied in the locker of the said vehicle. It is alleged that the said persons, took away 58 kg gold and two mobile phones belonging to the complainant and one another, pursuant to which, the aforesaid FIR was lodged. During investigation, 4 accused came to be arrested and 5 are stated to be still absconding.

4. Learned Counsel for the Applicant submitted that in the entire charge-sheet, no role has been ascribed to the present applicant. He submitted that the applicant has been arrested only on suspicion, because of the two phone calls he made to Ramcharan Ayodhya Prasad Mishra

(absconding accused) on 15th April, 2015, whereas the incident had taken place on 24th April, 2015. According to the learned counsel, the applicant had made these two phone calls, as Ramcharan Mishra, the absconding accused was his room mate and as both of them were sharing a rented apartment. He submitted that the applicant is not connected, in any way with the alleged offence or the accused.

5. Learned APP on the instructions of the Investigating Officer, who is present in the Court, does not dispute the fact, that the only material, as against the applicant is that he made two phone calls on 15th April, 2015 to Ramcharan Mishra (absconding accused).

6. Perused the charge-sheet. Admittedly, the applicant was not one of the persons, who were present at the spot, when the offence was committed. The only allegation, qua him, is that he made two phone calls to the absconding accused – Ramcharan Mishra, almost 9 days prior to the alleged incident.

7. Considering that this is the only material as against the

applicant and the fact that the applicant has no antecedents, 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. 10,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. for a period of 4 months after his release, and thereafter every two months, till the conclusion of the trial;
- (iii) The applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case.
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released 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;

(v) The applicant to cooperate in the conduct of the trial.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

REVATI MOHITE DERE, J.