

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [BA] No.558 of 2016

(Kalim Shah @ Mannu s/o Shabbir Shah

vs.

State of Maharashtra, through P.S.O. Pathrot, Tq. Achalpur, Distt. Amravati)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

CORAM : **S.B. SHUKRE, J.**

DATE : **2nd AUGUST, 2016.**

Heard Shri P.A. Rajurkar, learned Counsel for the applicant and Shri A.V. Palshikar, learned A.P.P. for the non-applicant/State.

This application is opposed by the learned A.P.P. contending that this applicant had taken active part in commission of the crime registered against him. However, from the case-diary, I could see no such material being made available on record, nor the learned A.P.P. could show it to me from the reply of the prosecution that where it is available on record some prima facie material against the applicant showing his active participation in the crime. However, the admitted facts are that no recovery under Section 27 of the Indian Evidence Act has been so far made at the instance of the applicant from the spot and that he has not been identified by any of the witness. The learned A.P.P. states that so far, the test identification parade has not been held. This applicant has been arrested on 23rd of

May, 2016 and it is a surprising fact that so far no identification parade has been held. This fact is also not mentioned in the reply of the prosecution and no reasons are put forth for non-performing of identification parade. On the contrary, it is stated in the reply that there is prima facie material available against the applicant on record, which is contrary to the ground reality.

In these circumstances, I am inclined to grant this application. Hence, the order.

The application is allowed and it is directed that the applicant be released on bail on his furnishing a P.R. Bond in the sum of Rs.25,000/- together with on solvent surety in the like sum on the conditions that (i) the applicant shall regularly attend the dates fixed by the Court in the matter, except when the exemption from personal appearance by law, (ii) shall co-operate with the trial Court in expeditious disposal of the case and (iii) shall not tamper with the prosecution witnesses.

The application is disposed of in aforesaid terms.

JUDGE

**sdw*

C E R T I F I C A T E

I certify that this order uploaded is a true and correct copy of the original signed order.

Uploaded by: S.D. Waghmare
P.A. to the Hon'ble Judge.

Uploaded on : 02/08/2016