

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION No.46 OF 2017

Vijay Ganpat Pawar

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.Vijay Hiremath, Advocate, for the Applicant

Mr.S.S.Pednekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.04.2017

P.C.

. Heard learned counsel for the Applicant and the learned APP for the Respondent – State.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.171 of 2016 registered with the Kharghar Police Station, Navi Mumbai, for the alleged offences punishable under Sections 395, 364A, 336, 347, 352, 420, 440, 504, 506A, 120B r/w.34 of the Indian Penal Code and under Sections 3 & 25 of the Arms Act.

3. Learned counsel for the Applicant submits that the incident in question has taken place in two parts. He submits

that as far as the first part of the incident is concerned, there are no allegations as against the Applicant of extortion or of kidnapping the complainant. He submits that the only allegation against the Applicant is that he prepared the Sale Deed which is alleged to be forged. Learned counsel also relied on the Certificate of the Applicant to show that the Applicant has a 40% disability and states that he is unable to walk without crutches. He submitted that even the identification parade has been held, much after the filing of the charge-sheet. According to him, the Registrar before whom the accused are stated to have gone, has not been put for identification parade. He submitted that as far as the complainant is concerned, although he is stated to have identified the Applicant in the identification parade, no role has been ascribed to the Applicant. He further submitted that there is nothing in the identification parade to show that persons similar to the Applicant suffering the same disability, were put up alongwith the Applicant. Learned APP does not dispute the fact that the Applicant is not concerned with the first part of the offence. He submitted that the allegation as against the Applicant is that he prepared the document alongwith other co-accused.

4. Perused the papers. It appears that the complainant

had a shop at Pune and that he had rented out the said shop to accused No.1 - Akshay Kurhe. It is alleged that Akshay Kurhe wanted to take over the said shop and hence he alongwith others called the complainant to Kharghar and thereafter, kidnapped him and took him to the Registrar's office and compelled him to transfer the property in the name of accused No.1. The allegation as against the Applicant is that he prepared the Sale Deed. The statement of the Registrar - Devidas Ghane which is on page No.144 of the Application shows that the complainant alongwith seven others had come to his office for registration of the document. Although, the complainant has not named the Applicant, he has identified the Applicant in the identification parade. It appears that the identification parade was held on 12.09.2016 i. e. after filing of the charge-sheet. It appears that the Applicant is suffering from 40% disability and can walk only with the help of crutches. It prima facie, also appears that no persons who were similar to the Applicant were put up in the identification parade. The complainant has also not ascribed any role to the Applicant. The Applicant has no antecedents.

5. Considering the aforesaid and the fact that the Applicant was not involved in the first part of the FIR and

considering the role of the Applicant, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

O R D E R

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) 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;
- (iv) The applicant to cooperate with the conduct of the trial;
- (v) 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.

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

7. 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)