

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

CRIMINAL BAIL APPLICATION NO.407 OF 2017

Munsaid Harun Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Anjali Patil for the applicant.

Mr. R. M. Pethe, APP for the respondent – State.

PI S. M.Kadam, DCB CID present.

CORAM : PRAKASH D. NAIK, J.

DATE : 14 JULY, 2017

P.C. :

1. This is an application for bail in connection with C.R. No.108 of 2015 registered with V. P. Road Police Station, Mumbai which was subsequently transferred to Anti Extortion Cell, DCB CID Mumbai. The offences were registered under sections 364(a), 365, 342, 323, 387, 120B IPC and section 3 and 25 of Arms Act.

2. The prosecution case is that informant is in the business of import export of copper metal. He has registered his company in the name of Yashvi Impess. The informant was contacted by one person stating that he is Rahul Jain and offered copper metal for sale. The proposal given by him was attractive and the complainant was induced to accept the same. In pursuance to that the complainant went to Delhi by flight. On reaching Delhi, he

was received by one person in the car and he was taken to another place under the garb of completion of transaction. He was detained in one premises and the accused threatened to part with an amount of Rs.10 lakhs. The said amount was parted through the Angadia and thereafter the complainant was released by the accused.

3. The applicant was arrested in some case at Uttar Pradesh. The FIR was registered against the unknown person. The custody of the applicant was taken in the present case from the other crime on 22nd August, 2016 registered vide C. R. No.335 of 2016, which is registered under section 307 of IPC. The identification parade was conducted on 27th September, 2016. The investigation is completed and the chargesheet has been filed.

4. Learned advocate for the applicant submitted that the FIR was registered against the unknown persons and the custody of the applicant is sought from another crime. The applicant has been falsely implicated in the present crime. It is submitted that the incident had occurred on 24th November, 2015 and the applicant was arrested on 22nd August, 2016 and after a month thereafter the Test Identification Parade was conducted on 27th September, 2016. It is submitted that during the Identification Parade allegedly the applicant has been identified. But the role was not stated, as far as the applicant is concerned. However, in the statement of the complainant which was recorded after the Identification Parade, the role has been assigned to the applicant

that he is the person who took the complainant from Delhi Airport to the scene of offence by vehicle. It is submitted that the co-accused viz. Irfan Khan who is also being implicated in the present case has been granted bail by the Sessions Court. It is submitted that even that accused was also identified by the complainant. There is no recovery from the applicant.

5. Learned APP opposed the application for bail. It is submitted that the modus operandi of the applicant and other accused is to induce businessmen to visit the place on account of business transaction and thereafter to rob such persons under threat. It is submitted that the statement of the complainant was recorded after the Test Identification Parade which attributes overt act to the applicant. It is also submitted that four cases are registered against the applicant. It is, therefore, submitted that the bail should not be granted to the applicant.

6. I have perused the chargesheet and the order passed by the Sessions Court while rejecting the application for bail. The incident had occurred on 24th November, 2015 while the applicant was identified on 27th September, 2016. While identifying the accused, role is not described which is however stated in the statement recorded by Police thereafter. The co-accused namely Irfan Khan who is also identified has been granted bail by the Sessions Court. It appears that there are antecedents against other co-accused also. The cases registered against the applicant are under section 307 of IPC, and one case under sections 420 read

with 467, 468 of IPC and under Arms Act.

7. Learned advocate for the applicant, however, submitted that the applicant has been acquitted under Arms Act and section 420 of IPC vide C.R. No.738 of 2016. The applicant is in custody since 22nd August, 2016.

8. There is no evidence on record to suggest that the applicant is involved in the similar crime with the co-accused. The chargesheet has been filed and the further detention of the applicant is not necessary. In view of the above, bail can be granted to the applicant.

:: ORDER :

- (i) Bail Application No.407 of 2017 is allowed.
- (ii) The applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only.) with one or more local sureties in the like amount.
- (iii) The applicant is directed to report to the concerned police station once in a month on the first Saturday between 11.00 am to 1.00 pm.
- (iv) The applicant should attend the trial Court on the date of hearing.
- (v) The applicant should not tamper with the evidence.

- (vi) The applicant should not leave jurisdiction of trial Court without prior permission of the Court.
- (v) Application stand disposed of.

[PRAKASH D. NAIK, J.]