

Anand

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

BAIL APPLICATION NO.429 OF 2017

1. Kalpesh Barkya Gharat .Applicants
2. Ramakant Laxman Patil

Vs.

The State of Maharashtra .Respondent

Mr.Kuldeep S. Patil, Advocate, for the Applicants
Mr.S.S.Hulke, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 20.04.2017

P.C.

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

2. By this Application, the Applicants seek their
enlargement on bail in connection with C.R.No.11 of 2016
registered with the Dadar Sagari Police Station, District – Raigad,
for the alleged offences punishable under Sections 394, 341,
120B r/w.34 of the Indian Penal Code.

3. Learned counsel for the Applicants submits that
although the Applicants have been identified in the identification
parade by the Complainant, there are several discrepancies in

the number of persons, who are alleged to have participated in the incident. He submitted that although the FIR has been lodged against four unknown persons, eight persons have been arrayed as accused in the said case. He submits that although the Complainant has identified the Applicants, the driver of the vehicle has not identified the Applicants. He further submits that the finger prints on the car are of Rajesh Gharat who has not been identified by the Complainant. He, therefore, submits that the identification of the Applicants itself is doubtful. He further submits that there is recovery of cash, mobile, clothes and motor cycle against each of the accused. According to the learned counsel, the motor cycle which is recovered has not been identified as having been used in the commission of the said offence and as such, the said recovery has no evidentiary value. He submits that all the accused are related to each other and therefore, the CDR record showing calls inter se are not incriminating. He submits that the Applicants have no antecedents.

4. Learned APP opposes the Application.

5. Perused the papers.

6. It appears the Complainant - Mahendra Shah was doing the business of wholesale and Auto spare parts. According to the Complainant, he used to supply spare parts to various shops. He has stated that he had gone to collect his dues and was returning home after collecting Rs.5,52,500/-, when his car was intercepted. He has stated that two unknown persons came on a motor cycle and intercepted the car and two persons came later and assaulted the Complainant and the driver and that all the said persons sat in the car and fled with the money. Pursuant thereto, the aforesaid complaint was lodged by Mahendra Shah as against four unknown persons. It appears that during investigation, eight persons were arrested including the Applicants. In the identification parade which was held, the Complainant has identified both the Applicants. There is recovery of cash of Rs.50,000/- and odd from each of the Applicants. The CDR records show that there are calls between the Applicants and other accused. The location appears to be at the same spot where the incident has taken place. Although, the FIR was lodged against four unknown persons, the fact remains that the Applicants have been identified by the Complainant and that there is recovery of money qua the Applicants. It also appears from the CDR records, that the Applicants' presence is

around the said place, at the time of the said incident and that calls were made by the accused to each other.

7. Considering the aforesaid, this is not a fit case to enlarge the Applicant on bail. Accordingly, the Application stands rejected.

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.

(REVATI MOHITE DERE, J.)