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

CRIMINAL BAIL APPLICATION NO.536 OF 2017

Ubed Alam @Babbar Habibul Rahman Shaikh ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr.V.V.Phatate, for the Applicant.

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 19th JULY, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.38 of 2016 registered with the Railway Police Station, Solapur for the alleged offences punishable under Sections 328, 379 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant states that there is no legally admissible evidence as against the applicant. He submitted that although the applicant has antecedents, he has been enlarged on bail in all the said cases.

4. Learned APP has filed an affidavit of Nanabhau Gulabrao Mapari, Police Sub Inspector attached to B.D.D.S. Team, Pune Railway, Pune. Learned APP is unable to point out any material, qua the applicant. She submits that except the statement of the co-accused, there is no material to connect the applicant with the alleged offences. She submitted that the applicant has antecedents inasmuch as, there are 5 similar cases registered as against him. She further submitted that the applicant is a resident of Delhi as such the possibility of the applicant absconding cannot be ruled out.

5. Perused the papers. According to the complainant – Khaja Saifain Chadsab Mulla, he was travelling by train from Pune to Bangalore when the incident took place. He has alleged that on 3rd March, 2016, when the train arrived at Solapur Railway Station, one unknown person offered him butter milk, containing an intoxicating substance. He has stated that

after consuming the butter milk, he felt giddy and went to sleep. He has stated that when he reached Bangalore Railway Station on 4th March, 2016, he found that his laptop bag containing Dell Company Laptop, Charger, Mobile Handset of Lenovo Company, one wrist watch and one shaving machine were missing, pursuant to which, he lodged a complaint with the Railway Police Station, Bangalore, which was thereafter, transferred to Solapur Railway Police Station. Nothing has been recovered at the instance of the applicant. Learned APP has not pointed out any material, qua the applicant. No doubt, the applicant has 5 similar antecedents, but, merely because the applicant has antecedents, he cannot be detained. Since, the applicant is a resident of Delhi, it would be appropriate to impose stringent conditions, whilst enlarging the applicant on bail.

6. Considering the material on record, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.1,00,000/- with one or two local solvent sureties in the like

amount;

ii) The Applicant shall attend the concerned Police Station, on the first and second Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

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 trial Court as well as to the concerned Police Station, in writing;

iv) The Applicant shall not leave Maharashtra State, till the conclusion of the trial;

v) The Applicant shall not contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall attend the Trial Court on every date of the hearing;

- vii) The Applicant shall not commit similar offences;
- viii) The Applicant shall co-operate in the conduct of the trial;
- ix) An undertaking to the aforesaid clauses (ii) to (viii), shall be filed by the Applicant, in the Registry of the trial Court, within two week's after his release;
- x) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. 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.

9. It is made clear that the applicant shall not file an application seeking reduction of the surety amount.
10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)