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

CRIMINAL BAIL APPLICATION NO.725 OF 2017

Shamkant Dayaram Patil	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.S.D.Shinde, i/b Ergo Juris, for the Applicant.

Mr.Y.M.Nakhawa, A.P.P. for the Respondent-State

HC/1286 – P.J.Pawar, Crime Branch, Unit – 1, Panvel, Navi Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 13th APRIL, 2017

P.C. :

1. Learned counsel for the applicant seeks leave to amend.

Leave granted. Amendment to be carried out forthwith.

2. Heard learned counsel for the applicant and the learned APP
for the Respondent – State.

3. By this application, the Applicant seeks his enlargement on

bail in connection with C.R.No.I-226 of 2016 registered with the Khandeshwar Police Station, Navi Mumbai, for the alleged offence punishable under Section 395 of the Indian Penal Code.

4. Learned Counsel for the applicant submitted that there is no material to connect the applicant with the alleged offence. He submitted that there is no recovery, qua the applicant. He submitted that the applicant, a constable was under a bonafide impression that a raid was being conducted and as such had no knowledge of the intention of the accused no.1 – API, Devidas Ghode.

5. Learned APP opposed the bail application.

6. Perused the papers. The incident in question has taken place on 11th November, 2016. According to the complainant – Gautam Bafna, co-accused – Anwar had called him to Sector 10 near CIDCO Garden, New Panvel, for exchanging Rs.50,00,000/- high-value currency notes of Rs.500/- and Rs.1,000/- denomination due to demonetization. According to the complainant, he carried an amount of Rs.46,50,000/- with him. He has

alleged that his car was intercepted by the police and after assaulting him the accused who are police took away the said amount of Rs.46,50,000/-. It is not in dispute that the applicant was also present at the spot, at the relevant time, when the complainant was apprehended and money was taken. The complainant has identified the applicant in the identification parade. It is the defence of the applicant that he had no knowledge of the acts of API, Devidas Ghode. It is submitted by the learned counsel for the applicant that the applicant was under a bonafide impression that a raid was being conducted. The said defence will be considered at the stage of trial and cannot be considered at this stage. Whether or not applicant had knowledge or not is a matter which will be decided by the trial Court. There is recovery of cash from all the accused, except the applicant. The CDR shows calls between co-accused – Anwar and API – Devidas Ghode. Investigation is complete and charge- sheet is filed. Learned APP is unable to show any material apart from what is stated hereinabove.

7. Considering the aforesaid, 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.50,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Monday 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 contact or attempt to influence the complainant or any persons concerned with the case;
- v) The Applicant shall co-operate in the conduct of the trial.

8. It is made clear, that the other accused shall not claim parity with the applicant and that the present application has been considered as there was no recovery from the applicant.

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

10. 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.

11. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)