

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 766 OF 2017

Rohit Kumar Yadav	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Manoj M. Badgajar, Advocate for the applicant.
Mr. S. R. Agarkar, APP, for the State.

CORAM: SMT. SADHANA S. JADHAV, J.
DATE : 24th April, 2017.

P.C.

Heard. This is a subsequent application under Section 439 of Cr.PC. The applicant herein is charge-sheeted in Crime No. 251 of 2017 registered at Vanrai Police Station for the offences punishable under Section 397 read with Section 34 of the Indian Penal Code and Section 3 read with Section 25 of the Indian Arms Act.

2. It is a matter of record that on 9.1.2017, the application filed by the present applicant was argued at length and only when the Court was not inclined to grant bail, the learned counsel for the applicant, upon instructions, had sought liberty to withdraw the application. In the present case, the applicant had filed Criminal Bail Application No. 1864 of 2016. The materials against the present applicant as well as co-accused Ratnakar

Chaubey are the same and that this Court (Hon'ble Justice N.W.Sambre) by an order dated 15.12.2016 was pleased to grant bail in favour of that applicant holding that the offence is triable by a Magistrate and that charge-sheet is already filed. The fact that the co-accused was enlarged on bail was orally demonstrated before this Court on 9.1.2017. However, the ground of parity was not considered in the facts of the case and therefore the said fact cannot be said to be a change in circumstance.

3. The learned APP submits that as far the present is concerned, there is a recovery of Rs.3,10,000/- from the applicant and the said recovery was caused pursuant to a Memorandum dated 25.8.2015. The date of registration of the FIR is 10.8.2015. According to the learned APP, the mother and brother of the present applicant have also been arraigned as an accused at the time of filing of charge-sheet as there was no sufficient material to indicate that the mother and brother of the applicant were receiver of the stolen property. However, the mother and brother of the applicant are absconding. It is also submitted by the learned APP that the present applicant happens to be an original native of Uttar Pradesh.

4. The learned counsel for the applicant submits that the mother and brother of the applicant are in Uttar Pradesh. The learned APP submits that in this backdrop, it can be safely inferred that the applicant would not

make himself available at the time of trial.

5. In the facts of the case, more particularly the fact that the applicant has been identified by the complainant at the time of test identification parade, that there is recovery of an amount of Rs.3,10,000/- from the applicant, particularly because the applicant is only a student and that the source of income is not on record. It is in these circumstances that the applicant does not deserve to be enlarged on bail.

6. Hence, the application stands rejected.

(SMT. SADHANA S.JADHAV, J.)