

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

CRIMINAL BAIL APPLICATION NO. 944 OF 2017

Akbar Mulla

...Applicant

Versus

The State of Maharashtra

...Respondent

Smt. Roshani Singh for the applicant.

Mr. Arfan Sait, APP for the respondent – State.

Police Inspector Rahimtulla I. Sayyed, Sewri Police Station present.

CORAM : PRAKASH D. NAIK, J.

DATE : 11 JULY, 2017

P.C. :

1. The applicant is seeking bail in connection with C.R. No.62 of 2016 registered with Sewri Police Station, Mumbai for offence punishable under sections 379, 461, 285 IPC and section 15(2) of Petroleum and Mineral Pipelines Act as well as section 3 of Prevention of Damage to Public Properties Act. Subsequently, the charge under section 395 was added.

2. It is the prosecution case that the police received an information that in the open park belonging to Mumbai Port Trust some persons have tampered with the pipe lines by putting hole to

the pipe and are theft of oil. The police visited the spot and found that the damage was caused to the pipeline of HPCL Company. One iron Clamp was attached to the pipeline and empty plastic can was also found at the place of incident. The police seized the articles from the place of incident. The accused had committed theft of oil. Some of the accused were arrested during the course of investigation. On the basis of the statement of the co-accused, the applicant was arrested. It is the prosecution case that the applicant was one of the person who was involved in the theft of oil and at the time of incident, he was keeping watch and assisting the persons who were stealing the oil.

3. Learned advocate for the applicant submitted that there is no evidence against the applicant. The applicant is implicated on the basis of the statement of the co-accused. The applicant is in custody from the date of arrest i.e. 9th July, 2016.

4. Learned APP strongly opposed the application for bail. It is submitted that the accused is involved in serious offence. There is a racket committing such type of offence. The involvement of the applicant is revealed during the investigation. He relied upon the statement of witness Siraj Shaikh which was recorded on 14th July,

2016. In the said statement, it is mentioned that the accused were indulging in the theft of oil. He also submitted that there is no fixed place of residence of the applicant. If released on bail, the applicant would abscond. Hence it is prayed that the application may be rejected.

5. On perusal of the entire chargesheet, it appears that the applicant is implicated on the basis of the statement of the co-accused. There is no independent evidence to show complicity of the applicant in the said crime. The applicant is in custody since July, 2016. The investigation is complete and the chargesheet has been filed. The statement of Siraj Shaikh referred to some persons being involved in the crime and he has noticed the accused stealing oil. However, there is no identification parade to identify the applicant as one of the person who was present at the scene of offence. Taking into consideration, the said circumstances, the applicant can be granted bail.

:: ORDER ::

(i) Bail Application No.944 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 Sewri Police Station, Mumbai on every Saturday between 11.00 am to 1.00 pm till further orders.

(iv) The applicant is directed to attend trial Court on the date of hearing of the case.

(v) The applicant is directed to intimate the investigating officer whenever the applicant intends to go out of the State of Maharashtra.

(vi) Application stands disposed of.

[PRAKASH D. NAIK, J.]