

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1302 OF 2017**

Suraj Jaysingh Jadhav	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Nitin Sejpai for the Applicant

Mr. Prashant Jadhav, A.P.P for the Respondent-State

API Mr. Subhash Narayan More, from Poladpur Police Station, Raigad, is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 11th 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. I-51 of 2015 registered with the Poladpur Police Station, Raigad, for the alleged offences punishable under Sections 395, 397, 460, 120-B of the Indian Penal Code.

3. Learned Counsel for the applicant seeks bail on the ground of parity. He submits that the similarly placed co-accused Pranil Patekar has been enlarged by this Court (Coram : Mrs. Mridula Bhatkar, J.) vide order dated 17th February, 2017 passed in Bail Application No. 2233 of 2016. He submitted that infact, the applicant stands on a better footing than co-accused Pranil Patekar. He further submits that the only material against the applicant is the alleged recovery of Rs. 5,000/-, 2 sickles, 1 iron rod and a stick. He submits that however, none of the weapons were blood stained. He submits that the applicant has no antecedents. He further states that the applicant's identification parade was not held.

4. Learned A.P.P opposed the application. He submits that the applicant had accompanied the main co-accused Deva Mohite to a jeweller's shop, where the stolen gold ornaments were melted. He does not dispute the fact that there are no antecedents *qua* him.

5. Perused the papers. On 25th November, 2015, at around 10:20 p.m., about 8 persons entered the house of the complainant, assaulted the complainant, his parents and his wife. It is alleged by the complainant that

he and his family members were threatened and that one of the accused had placed scythe on the neck of the complainant's grandson. According to the complainant, he and his family members gave away the gold ornaments, money and thereafter, all the accused fled away from the spot along with their mobile phones. It appears that as far as co-accused Pranil Patekar is concerned, he was identified in the Test Identification Parade by the complainant and his parents. However, nothing was recovered from Pranil. It also appears that the complainant had specifically stated that Pranil had taken away the cell phones which were lying on the window.

6. As far as the applicant is concerned, although there is recovery of 2 sickles, 1 iron rod and a stick at his instance, the said weapons were not blood stained. Admittedly, the applicant was not put up in the identification parade. The only evidence against the applicant is recovery of Rs. 5,000/-. It also appears that there is a statement of a jeweller who has stated that the applicant had accompanied co-accused Deva Mohite to his shop for selling some gold ornaments and got the gold ornaments melted at the said shop. The applicant has no antecedents.

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 executing PR Bond in the sum of Rs. 30,000/- with one or two sureties in the like amount;
- (ii) The applicant shall not tamper the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial and to attend the Court on all dates given by the trial Court.
- (v) The applicant to file an undertaking with regard to clauses (ii) to (iv) in the trial Court, within two weeks of their release;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

8. The application is accordingly disposed of.

9. 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.

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

REVATI MOHITE DERE, J.