

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1513 OF 2016

Shri Barkat Abbas Ali Khan	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr.A.Majid H. Banderkar, Advocate for the applicant.
Ms.P.P.Shinde, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 6th February, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested in Crime No.68 of 2014 on 5.7.2015. The investigation is completed and charge sheet is filed against the present applicant and five others for the offences punishable under Section 395, 341, 342 of the Indian Penal Code.

2. At the outset, the learned counsel for the applicant submits that the accused Nos. 1 to 5 have been enlarged on bail.

3. Perused the order granting bail in favour of original accused No.5. It is also submitted that the applicant and accused No.5 were not put up for test identification parade.

4. It is the case of the prosecution that on 10.7.2015, Rais Ahmed

Habib Khan lodged a report at Kasa Police station alleging therein that he is working as a driver with S.R. Railways Transport, Mumbai. On 29.6.2015, he had loaded the cloth material from Surat in his tempo and same were to be unloaded at Kalbadevi, Mumbai in the night 30th June, 2015 at about 2 a.m. when he had crossed Charoti Toll Naka he had halted for tea. He had received a phone call from Ramdhan Yadav. He has requested Ramdhan to meet him and when he reached Charoti Toll Naka, he had followed the truck of Ramdhan. They were intercepted by a tempo. Some people had alighted from the tempo threatened him and had taken away the cloth material which was loaded in the truck. It is alleged that he had seen the registration number of the taxi and had given the details. He was abandoned on the road. In the course of investigation, the present applicant was arrested.

5. There is no recovery at the behest of the applicant. The learned counsel for the applicant, upon instructions, submits that the applicant has no criminal antecedents. The original accused Nos. 1 to 4 who have been identified in the test identification parade have been enlarged on bail. There was recovery of a knife from original accused No.5 and he has also been granted bail by this Court (Coram:A.S.Gadkari,J.) by order dated 14.10.2016. In view of this, by doctrine of parity, the applicant would also be entitled to

be entitled to be enlarged on bail.

6. The observations herein are restricted to an application under Section 439 of Cr.P.C. and the same shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall report to Kasa Police Station on first of each month till framing of charge.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)