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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1942 OF 2017

Faizal Memon

..Applicant.

V/s.

State of Maharashtra

..Respondent.

Mr.Ganesh S. Patil for the Applicant.

Ms.J.S. Lohakare, APP for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATED : SEPTEMBER 14, 2017

P.C.:-

Heard learned counsel for the parties.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R. No.62/2016 registered with Sewree Police Station, Mumbai for the offences punishable under section 395, 461 and 285 of the Indian Penal Code read with section 15(2) of Petroleum and Mineral Pipelines Act, 1962 read with section 3 of

the Prevention of Damage to Public Property Act, 1984. It appears that section 395 of was added lateron.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that co-accused Akbar Mulla has been enlarged on bail by this Court (Coram : Prakash D. Naik, J.) vide order dated 11 July, 2017 in Criminal Bail Application No.944 of 2017. He submits that the only overt act against the Applicant is that he procured oil from the tanker and sold it to different persons and received handsome amount for the same. He submits that the Applicant has no antecedents.

4. Learned APP opposes the application. She however, does not dispute the fact that the Applicant has no antecedents.

5. Perused the papers. According to the prosecution, police had received information that some persons in an open park belonging to the Mumbai Port Trust had tampered with the pipelines, by making holes to the pipe and had committed theft of oil. Police visited the spot and found that the pipeline of HPCL

Company was damaged. They also found that one iron clamp was attached to the pipeline and an empty plastic can on the spot. Accordingly, the police seized the articles from the spot. Nine accused came to be arrested for committing theft of oil. Learned APP relied on the statement of Siraj Shaikh to show, that the Applicant was committing theft of oil from the tanker. Learned APP is unable to point out that the Applicant is the person who had damaged the pipeline of the HPCL Company and that he committed theft from the said pipeline. Investigation is complete and charge-sheet is filed. The Applicant has no antecedents.

6. Considering the aforesaid, further detention of the Applicant is not warranted. Accordingly, the application is allowed and the Applicant is enlarged on bail on the following terms and conditions:-

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on

the first Saturday of every month, between 11:00 a.m. to 12:00 p.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 the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall co-operate in the conduct of the trial;
- vi) An undertaking to the aforesaid clauses (ii), (iii) and (iv), shall be filed by the Applicant, in the Registry of the trial Court, within two week's of his release;
- vii) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek

cancellation of Applicant's bail.

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

8. 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.

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

(REVATI MOHITE DERE, J.)