

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

BAIL APPLICATION NO. 2086 OF 2017

Prakash Hajari Jat

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Kapil Dave i/b Santosh Thakur for the Applicant.

Ms. A.A. Takalkar, APP for the Respondent/State.

Mr. B.M. Raikar, API Crime Branch-2, Panvel, Navi Mumbai.

CORAM : A.S.GADKARI, J.

DATE : 28th SEPTEMBER, 2017

P.C.:

. This is an application under Section 439 of Cr.P.C. for bail in C.R. No. 13/2017 dated 27.01.2017 registered with Kamothe Police Station, Navi Mumbai under Sections 395, 343 and 120(b) of Indian Penal Code.

2 It is the case of prosecution that on 27.01.2017 at about 11.20 a.m. two persons committed robbery on highway of 440 grams of gold and Rs.88,000/- cash from Gorakhnath Shinde and Vikas Shendge. The First Information Report is lodged by Gorakhnath Shinde. During the course of investigation the Applicant came to be arrested on 15.04.2017. After completion of investigation, police have submitted the charge-sheet.

3 The allegations against the Applicant is that he gave information about the

person i.e. the employee of Nanasaheb Metkari, who conducts business of gold refinery at Kamothe, Navi Mumbai. The material available against the Applicant is that his name has been mentioned as Prakash Marwadi by co-accused Salman Shaikh and Imran Patel in recovery panchnama under Section 27 of the Evidence Act. The prosecution has also relied on the statement of Jagdish Disle the landlord of the Applicant to whom on 27.01.2017, the Applicant gave extra judicial confession about committing robbery of a jeweller. As far as the circumstance of mentioning the name of Applicant as Prakash Marwadi by the co-accused in the statement under Section 27 is concerned the same is hit by Section 25 of the Evidence Act. As far as the circumstance of extra judicial confession given to Jagdish Disle is concerned, it prima facie appears that it is improbable that the Applicant would give an extra judicial confession to his landlord for no reason. The statement of Jagdish Disle is recorded on 29.01.2017 i.e. after the arrest of the Applicant and it appears to be improbable that the Applicant could have confided with his landlord with whom he has no close relations.

4 May that as it may, the evidence on record is silent about the fact of the said person named by co-accused as 'Prakash Marwadi' is the same i.e. Applicant/'Prakash Jat'. Prima facie it further appears that the said connecting link is missing from record.

5 In view thereof, the Applicant can be released on bail.

Hence, the following order:-

- i) The applicant be released on bail in C.R. No. 13/2017 dated 27.01.2017 registered with Kamothe Police Station, Navi Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- ii) After his release from the jail, the applicant shall attend the Kamothe Police Station once in month i.e. on every 1st Monday of the month between 11.00 a.m. to 2.00 p.m.
- iii) Applicant shall also attend all dates before the Trial Court.
- iv) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.
- v) Applicant shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.
- vi) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)