

Dond

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

BAIL APPLICATION NO.2285 OF 2017

Prashant Sainath Lekurwale

... Applicant

V/s.

The State of Maharashtra

... Respondent

WITH

BAIL APPLICATION NO.2244 OF 2017

Prashant Bhausahab Vadak

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Satyavrat Joshi for Applicant in BA No.2244/2017.

Mr. P.G. Sarda, i/b S.T. Zalte for Applicant in BA No.2285/2017.

Mr. Vinod Chate, APP for State in BA No.2285/2017.

Mr. S.S. Hulke, APP for State in BA No.2244/2017.

CORAM : A.S.GADKARI, J.

DATE : 29th NOVEMBER 2017

P.C.:

1] The aforestated applications under 439 of Cr. P.C. are for bail in CR No. 52 of 2016 dated 23.3.2016 registered with Narayangaon Police Station, District-Pune under Sections 395, 392, 201, 341, 342, 363, 506 r/w 34 of the Indian Penal Code.

2] It is the prosecution case that, on 18.3.2016 the first informant

namely Vijndrakumar Nirmal was carrying cigarette-cartons of ITC Company in a Truck container from Ranjangaon to Ahmadabad. That at about 9.30 p.m the said container was waylaid near village Manchar, District-Pune and three persons abducted the driver and cleaner alongwith the said container and committed dacoity of the goods. The first informant/driver and the cleaner namely Naresh Patidar were kept in detention overnight and were subsequently dropped on Badlapur-Karjat high-way near a godown at about 3.00 a.m on 20.3.2016. The driver of the said container lodged the present report. During the course of investigation, police have arrested applicants on 2.4.2016. Thereafter the police following the due process, conducted test identification parade on 5.4.2016. After completion of investigation, police have submitted chargesheet.

3] Perused the record of investigation.

Prima facie, it appears that the test identification parade conducted by the police is in utter violation of the guidelines issued by the High Court Criminal Manual, as three accused persons were put in one single line along with fifteen other dummy persons, the test identification parade will have to be kept aside from consideration at this stage. If the test identification parade is kept aside from consideration, then prima facie it

appears that there is no other material available on record against the applicants.

4] In view thereof, the applicants can be released on bail.

Hence, the following Order:

(i) The applicant be released on bail in CR No. 52 of 2016 registered with Narayangaon Police Station, District Pune on their furnishing PR bond of Rs.25,000/- each with one or two separate local solvent sureties in the like amount.

(ii) After their release from the jail, the applicants shall attend the concerned Police Station on every 1st Monday of the month between 10.00 a.m. To 1.00 p.m.

(iii) Applicants shall 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) Applicants shall not tamper with the evidence and/or influence the prosecution witnesses.

5] Both application are allowed in the aforesaid terms.

(A.S.GADKARI, J.)