

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

BAIL APPLICATION NO. 2407 OF 2017

Shubham Houserao Walke. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Aashish Satpute a/w. Mr. Aniket Nikam, advocate for Applicant.

Mr. Vinod Chate, APP for State.

Mr. H.S. Bochara, PSI, Pimpri Police Station, Pune.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : DECEMBER 20, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 23/5/2017 in Crime No. 278 of 2017 registered at Pimpri Police Station, Pune for

offence punishable under section 395, 427, 504, 506 of the Indian Penal Code and under section 4 read with section 25 of the Arms Act, under section 3 and 7 of Criminal Law Amendment Act and under section 37(1) read with Section 135 of Bombay Police Act.

3 It is the case of the prosecution that on 22/5/2017 Mrs. Rekha Suryawanshi lodged a report at the police station alleging therein that on 22/5/2017 at about 5 a.m. she had heard knock on the door. When she attempted to open the door, she was threatened with deadly weapons by two persons known to her. In order to rescue herself, she had fled from her house alongwith her son and had gone to the house of her brother-in-law. She had identified all the miscreants by name. That according to her, the present applicant was accompanying other miscreants. They had stolen valuables worth Rs. 27,500/-. It is alleged that the whole group is terrorising the people in the said area.

4 The learned Counsel for the applicant submits that no specific role is attributed to the present applicant, nor there is any allegation that he was armed with any weapon and hence he deserves to be enlarged on bail.

5 The learned APP submits that the original accused no. 1 has criminal antecedents in which more than 10 criminal cases are registered against the accused No. 1 and as far as the present applicant is concerned, he is accused in Crime No. 719 of 2016 registered at Pimpri Police Station.

6 The investigation is completed and charge-sheet is filed. In the facts of the case, this Court is of the opinion that further incarceration is unwarranted. Hence, the applicant deserves to be enlarged on bail.

7 However, it is made clear that the observations made hereinabove are prima facie in nature and restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The trial

Court shall not be influenced by the above observations at the time of hearing of application for discharge or quashing of FIR or at the time of trial. The same be heard on its own merits.

8 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 30,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall not enter into the jurisdiction of Pimpari-Chinchwad Municipal Corporation till conclusion of the trial.
- (iv) The applicant shall furnish cell phone number, landline number and the address to the concerned police station within one week after enlargement on bail.

(v) The applicant shall not tamper with the evidence.

9 The Application stands disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)