

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

BAIL APPLICATION NO.2344 OF 2016

Sunil Bhatu Rathod

... Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr.Shrishail Sakhare for the Applicant
Mr.Rajan Salvi, APP, for Respondent – State
Mr.D.S. Dhone, API, Pangri Police Station, present

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 13, 2017

P.C. :

1. The application is moved for pre-arrest bail as the applicant/accused is facing charges under sections 392, 120B r/w section 34 of the Indian Penal Code. One Sandip Dadarao Nitansare was plying Innova taxi on 4.7.2016. In the morning at around 10.30am, his taxi was booked for three persons to go to Tuljapur. He picked up the three persons i.e., the applicant/accused and the co-accused from Gangadham Chowk, Vibhavadi, Pune and they all proceeded towards Tuljapur. When they reached near Pimpalgaon (Dhas) near Barshi at 4.30 am, all of them tried to

strangulate him with a rope. He became unconscious. After gaining consciousness, he found that he was lying on the roadside and thus, he realised that the applicant/accused and the co-accused took away his Innova car alongwith his two cell phones and thus, he was robbed of a total Rs.6,55,500/-. Hence, he gave information to the police on 5.7.2016 on the same day. Pursuant to this information, the offence was registered at C.R. No.138 of 2016 at Pangri Police Station, Solapur. The applicant/accused and the co-accused were arrested on the next day i.e., 6.7.2016. Hence, this Bail Application.

2. The learned Counsel for the applicant/accused submitted that the police have recovered ATM card and driving licence of the complainant from the applicant/accused. The car is also recovered from the other accused. The chargesheet is filed on 30.8.2016 . The offence is triable by Magistrate and therefore, he be released on bail.

3. The learned Prosecutor while opposing the Bail Application submits that in the test identification parade, the complainant has identified the applicant/accused and the co-accused as robbers. He submitted that the ATM card and the driving licence of the

complainant were recovered from the applicant and thus, there is sufficient evidence against him. Therefore, he is not to be released.

4. Heard both the learned counsel for the parties. Perused the statements of the complainant and the record placed before me. It is rue that there is a recovery of ATM card and the driving licence of the complainant from the applicant/accused and the complainant has identified the applicant/accused in the test identification parade. However, the police have filed the chargesheet and the offence is triable by Magistrate. Moreover, on query, it is informed that the applicant/accused has no criminal antecedents and it is his first offence.

5. In view of the facts of the case, the application is allowed with the following order:

- i) The application is allowed.
- ii) The applicant/accused shall be released on bail upon furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount;

iii) The applicant/accused shall not pressurise the complainant in any manner whatsoever;

iv) The applicant/accused shall not indulge into any criminal activity especially against property and human body.

v) The applicant/accused shall attend all the court dates

6. Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)