

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2454 OF 2016**

Mandar Tanaji Chorage

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. A. P. Mundargi, Sr. Counsel i/b Mr. Jayant Joseph Bardeskar for the Applicant

Mr. Sooraj S. Hulke, A.P.P for the Respondent-State

PSI Mr. B. R. Kote from Hinjewadi Police Station, Pune, is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 18th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 81 of 2015 registered with the Hinjewadi Police Station, for the alleged offences punishable under Sections 394 r/w 34 of the Indian Penal Code.

3. Learned Senior Counsel for the applicant submits that although the applicant has been identified by the complainant in the identification parade, the statement of the complainant shows that the applicant had worn a monkey cap and as such his face was covered. He submits that even Dattaram Jadhav, an eye-witness although has identified the applicant, has in his statement stated that the person who was riding the motorcycle had worn a monkey cap which was covering his head and face. He submitted that in the light of the statements of the complainant and the eye-witness, the identification of the applicant is doubtful. He submits that apart from the said evidence, there is no other material to connect the applicant with the alleged offence.

4. Learned A.P.P opposed the bail application. He submitted that the applicant has been identified in the identification parade by the complainant and Dattaram Jadhav (owner of a Snacks Centre). He submits that the applicant is involved in similar offences and that there are three antecedents; one under the Prohibition Act registered in the year 2012; one under Section 395 registered in 2014 and one under the NDPS Act

registered in 2015. He submits that whilst on bail, the aforesaid offences have been committed.

5. Perused the papers. According to the complainant, he was proceeding to the State Bank of India on a motorcycle to deposit cash of Rs. 5,43,455/-. He has alleged that when he was on his way, two unknown persons came on a motorcycle wearing monkey caps and that the pillion rider forcefully pulled the bag from the complainant which contained the cash amount and thereafter drove away from the spot. The pillion rider is also alleged to have assaulted the complainant and thrown chilli powder on his face.

6. No doubt, the complainant and witness Dattaram Jadhav have stated that the accused were wearing monkey caps but the fact remains that the applicant has been identified by both, the complainant as well as Dattaram Jadhav. Apart from the aforesaid, there are CDR records to show that all accused were in touch with each other at the relevant time. Since the applicant was riding the motorcycle, no phone calls were made to the applicant. The applicant was involved in a similar offence in 2014.

Considering the aforesaid material on record, this is not a fit case to enlarge the applicant on bail. The application is accordingly rejected.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.