

Anand

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

BAIL APPLICATION NO.2628 OF 2016

Kushal Dipak Ghaste .Applicant

Vs.

The State of Maharashtra .Respondent

WITH

BAIL APPLICATION NO.2409 OF 2016

Tejas alias Bapu alias Bapya .Applicant
Jagannath Ghadage

Vs.

The State of Maharashtra .Respondent

Mr.Kuldeep Patil, Advocate, for the Applicant in
B.A.No.2628 of 2016

Mr.Rajan Salvi, APP, for the Respondent – State
in B.A.No.2628 of 2016

Mr.P.G.Sarda i/b. Mr.S.T.Zalte, Advocate, for
the Applicant in B.A.No.2409 of 2016

Mr.S.H.Yadav, APP, for the Respondent – State in
B.A.No.2409 of 2016

CORAM : REVATI MOHITE DERE, J.

DATE : 29.06.2017

P.C.

. Heard learned counsel for the parties.

2. By these Applications, the Applicants

seek their enlargement on bail in connection with C.R.No.309 of 2015 registered with the Chinchwad Police Station, District – Pune, for the alleged offences punishable under Sections 307, 120B of the Indian Penal Code and under Sections 37(1)(3) r/w.135 of the Bombay Police Act.

3. Learned counsel for the Applicant – Kushal Ghaste in B.A.No.2628 of 2016 submits that there is no material to connect the Applicant with the alleged offences. He submits that the Applicant – Kushal Ghaste has not been identified by the Complainant and that the only material against him is recovery of Rs.36,000/-. He submits that the Applicant has no antecedents and that the Applicant is in custody since 2015.

4. Learned counsel for the Applicant – Tejas Ghadage in B.A.No.2409 of 2016 submits that although the Applicant has been identified

in the test identification parade, no specific overt act has been attributed to the Applicant. He states that there is recovery of Rs.6,500/- at the instance of the Applicant. He further states that the Applicant has no antecedents and that the Applicant has also been in custody since 2015.

5. Learned APPs oppose the Applications. They do not further dispute the fact that the Applicants have no antecedents.

6. Perused the papers. The incident has taken place on 01.12.2015. The Complainant is Madhukar Patil. He has alleged in his complaint, that on 30.11.2015, having worked in the second shift, he returned home at 11.50 p.m. He has stated that when he went to switch on the lights, one person assaulted him with a koyta on his head from behind. He has given the description of the said person. He has stated

that he overpowered the said person and snatched the koyta from his hand. The said persons escaped thereafter. According to the Complainant, his neighbours on hearing his shouts, took him to the hospital. He has further stated, that when his wife and children came to the hospital, they informed him, that at around 11.30 p.m., somebody knocked on the door and hence, they opened the door. They disclosed that there were five persons outside the house; that the said five persons entered the house; threatened them and took away the Gold ornaments. According to the Complainant, his wife also informed him, that they rescued themselves and took shelter in his brother's house. Accordingly, the Complainant lodged an FIR alleging an offence punishable under Section 395 of the Indian Penal Code. In the course of investigation, it was revealed that the Complainant's daughter was in love with one Nilesh Bharadiya. It was also revealed that

Nilesh Bharadiya and the Complainant's wife – Mrs. Manisha Patil had hatched a conspiracy to eliminate the Complainant, as he was against the marriage of his daughter with Nilesh. The Complainant has in the said incident; sustained 4 CLWs; two on the head; one on the thumb and one on the shoulder. During investigation, the Complainant's wife – Mrs. Manisha Patil was also arrested and after filing of the charge-sheet, co-accused – Mrs. Manisha Patil was enlarged on bail. Admittedly, the Applicant – Kushal Ghaste has not been identified in the test identification parade. As far as the Applicant – Tejas Ghadage is concerned, although he has been identified, no role has been ascribed to the Applicant. There are no antecedents qua the Applicants. Investigation is complete and charge-sheet is filed.

7. Considering the aforesaid, the Applications are allowed and the Applicants are

enlarged on bail on the following terms & conditions:-

O R D E R

- (i) The Applicants be enlarged on bail, on executing PR Bond in the sum of **Rs.50,000/- each** with one or more sureties in the like amount;
- (ii) The Applicants shall report to the investigating officer of the concerned police station on the **first Monday of every month** between **10.00 a.m. and 11.00 a.m.** till the conclusion of the trial;
- (iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the

concerned Police Station;

(v) The Applicants to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicants' bail.

8. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

9. 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)