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

CRIMINAL BAIL APPLICATION NO.22 OF 2018

Roshan Sohrabh Shaha	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr.Amol Mhatre i/b Mr.A.Y.Patil, for the Applicant.

Mrs.P.P.Shinde, A.P.P for the Respondent-State.

PSI – R.B. Bhoir, Wada Police Station, Palghar.

***CORAM : REVATI MOHITE DERE, J
DATE : 12th JULY, 2018***

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant.
By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-214 of 2016 registered with the Wada Police Station, Palghar, for the alleged offences punishable under Sections 395 and 506, of the Indian Penal Code.

3. Learned Counsel for the applicant submits that co-accused – Devanand Ramesh Tumbda, has been enlarged on bail despite the fact that he has been identified in the identification parade and despite the evidence of recovery against him. He submitted that the applicant was not present at the spot and is alleged to have come subsequently in a pick-up jeep. He submitted that till date, trial has not commenced. He further submits that the applicant has no antecedents.

4. Learned APP does not dispute the fact that the applicant has no antecedents. She also does not dispute the fact that co-accused – Devanand Ramesh Tumbda, has been enlarged on bail.

5. Perused the papers. The applicant's first bail application was rejected by this Court vide order dated 6th September, 2017. It appears that the complainant – Brijbhushan Tripathi, had received a call on 27th September, 2016 from Nagendra Yadav, informing him about the robbery which took place in Rudra Company. According to the complainant, on reaching the spot, he learnt from Sanjay Yadav (watchman), that at about 1.00 a.m to 3.30 a.m., 10 to 11 people had entered the company from the

back gate of the company; that when Sanjay Yadav tried to stop the said persons, 3 of them, threatened him by showing him iron rods and forcefully made him sit at one place; that the remaining persons entered the company and took the machinery and other material from the company and loaded the same in a white pick-up jeep and left the said spot. It is pertinent to note that although Sanjay Yadav's (watchman) statement was recorded, he was not sent for the Identification Parade. It appears that another watchman Sanjaykumar Devnarayan Shukla, has stated in his statement recorded on 29th September, 2016 that 3 persons had come to the spot and that he and one Santoshkumar Yadav were threatened by the said persons. He has further given the description of the said persons. In the identification parade which was held on 21st October, 2016, Sanjaykumar Shukla, had identified four persons i.e. Devanand Tumbda, Papesh Ramesh Bundhe, Sandeep Laxman Datela and Roshan Sohrabh Shaha (Applicant). No specific role has been assigned to the applicant. The applicant, according to the prosecution was in the pick up van, with the driver. Co-accused - Devanand Tumbda, who has been identified, has been enlarged on bail. Thus, the applicant is entitled to be enlarged on bail, on the ground of parity. The applicant is in custody since 2016. The trial has also not commenced, till

date.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iii) The Applicant shall inform his 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 trial Court as well as to the concerned Police Station, in writing;
- iv) The Applicant shall not contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall co-operate in the conduct of the trial and shall attend the Court on every date of hearing;

(vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the trial Court, within two week's of his release;

(vii) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)