

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

BAIL APPLICATION NO. 2144 OF 2018

Muqem Sharif KhanApplicant

V/s.

The State of MaharashtraRespondent

WITH

BAIL APPLICATION NO. 971 OF 2018

Foorkhan Ansar KhanApplicant

V/s.

The State of MaharashtraRespondent

Mr. K.H. Giri for the applicant in BA 2144/2018.

Mr. R.D. Suryawanshi for the applicant in BA 971/2018.

Mr. S.H. Yadav, APP for the State in BA 2144/2018.

Mr. Ajay Patil, APP for the State in BA 971/2018.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 17th OCTOBER, 2018.

P.C.:

. These are the applications under Section 439 of Criminal Procedure Code filed by the aforesaid applicants, who have been arrested in C.R.No.159/2015 registered at Taloja Police Station, Navi Mumbai for offences punishable under sections 395 r/w. 34 of the Indian Penal Code.

2. Heard Mr. K.H. Giri and Mr. R.D. Suryawanshi, learned counsel for the applicants and Mr. S.H. Yadav and Mr. Ajay Patil, learned APPs for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the first information report lodged by one Ansar Alam Mansuri, driver of vehicle No.MH04-FJ-1433. The first information report prima facie reveals that on 26/11/2015, the first informant, as per the instructions of the owner of the driver, had loaded iron beams, channels etc. in the said trailer which was to be delivered at India Steel, Uttar Shiv, Thane. On 27/11/2015, at 00:30 hrs, when the vehicle reached Bhiwandi-Nashik bypass road, six persons stopped the said trailer. Three of them got in the vehicle and told the first informant to drop them at Shilphata road. Sometime later, one Swift car overtook the trailer. One of the persons who had got into the trailer, pushed the first informant from the driver's seat and took control of the vehicle. When the vehicle reached near Nawda village, the said persons pushed the first informant out of the vehicle. In the meantime, the persons who were in the swift car reached the spot. Said persons assaulted the first informant and

snatched Rs.13,500/- from his pocket as well as his mobile phone and all the said persons went away with the trailer loaded with iron beams, angles, etc. The records reveal that the trailer loaded with iron beams, angles, etc. was recovered at the instance of accused no.1. The other accused were also placed under arrest. The first informant had identified both the applicants as the persons involved in the said incident. The records also prima facie indicates that the mobile phone of the complainant has been recovered from the applicant - Muqeem Sharif Khan. The records reveal that both these applicants were involved in three other crimes for offences under sections 395, 365 of the Indian Penal Code. In the light of these facts, present applicants would not be entitled for bail on the ground of parity as the co-accused Rakib Rafeeqali Shaikh, Kasim A. Rizvi and Vinodkumar Sabhajit Upadhyay have no criminal antecedents. It is also to be noted that the bail application filed by similarly placed co-accused Dilshad Khan has been rejected.

4. The applicants are not the permanent residents of the State and hence, there is every possibility of these applicants not being available for trial. Considering the above facts and circumstances, the applicants are not entitled for bail. Hence, both the Bail Applications are

dismissed.

5. Considering the fact that the applicants are in custody since 2015, the learned Sessions Judge, Raigad-Alibag is directed to dispose of the matter as expeditiously as possible and in any event within a period of one year from the date of receipt of copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)