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

CRIMINAL BAIL APPLICATION NO.2704 OF 2017

Sarfraj @Pintu Kalim Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.R.N.Gite, for the Applicant.

Ms.J.S.Lohokare, A.P.P for the Respondent-State.

API – S.J.Garad, Local Crime Branch.

CORAM : REVATI MOHITE DERE, J.

DATE : 12th MARCH, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-254 of 2017 registered with the Virar Police Station, Palghar, for the alleged offences punishable under Sections 395, 341, 363, 120(B) and 323 of the Indian Penal Code.
3. Learned Counsel for the applicant submitted that there is

absolutely no material on record to connect the applicant with the alleged offences. He submitted that the goods were subsequently recovered and were returned to the owner. He further submitted that the driver of the truck, which was intercepted was not sent for identification parade. According to the learned counsel, there is no recovery at the instance of the applicant. He submitted that the applicant has no antecedents and that he is in custody since 16th May, 2017.

4. Learned APP opposed the application.

5. Perused the charge-sheet. According to the prosecution, the complainant-Sudhirkumar Agarwal had ordered 27 tonnes of copper wire goods from Hindustan Copper Limited, Taloja, Navi Mumbai and that the said copper wire goods were being transported from Taloja to Jaipur, Rajasthan. According to the complainant-Sudhir, he received information on 14th May, 2017, from his Manager that the trailer truck which was loaded with copper wires, heading towards Jaipur was intercepted and that six persons robbed the copper wires and took the driver of the said vehicle to one spot and left him there. After investigation, charge-sheet was filed. The

applicant was arrested in May, 2017. According to Niyazudin Ahmed, the driver of the Hydra, two persons had come to his office, pursuant to which, Hydra was taken for lifting the copper wires, from the truck. The applicant has been identified by Niyazudin Ahmed, the driver of Hydra, who had gone for uploading the copper wires, as well as, by the cleaner Sunny Yadav, who had accompanied Niyazudin Ahmed. It is informed that Gopal, the driver of the truck, whose vehicle was intercepted by six unknown persons, left the job soon thereafter and hence could not be traced and sent for identification parade. The applicant is a resident of Uttar Pradesh and the possibility of the applicant absconding and not being available for trial cannot be ruled out. It is also informed that 164 statements of Niyazudin Ahmed and Sunny Yadav have also been recorded.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

7. Hence, the application for bail is rejected and disposed of as such. However, the trial of the applicant is expedited.

8. It is made clear that the observations made herein are prima facie for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)