

Anand

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

BAIL APPLICATION NO. 3033 OF 2017

Himanshu alias Tinu Namdeo Sawant .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. M. K. Kocharekar, Advocate, for the Applicant
Mr. A. A. Palkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.03.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 108 of 2017 registered with the Kasarvadavali Police Station, District - Thane, for the alleged offences punishable under Sections 394, 397 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant submits the Applicant has been falsely implicated in the said case. He submits that the Applicant is a student and had appeared for his 12th Std. examination, but had failed. He submitted that the Applicant has been identified in the

Test Identification Parade after almost two months of the incident. He submitted that similarly placed co-accused who has been identified in the Test Identification Parade has been enlarged on bail.

4. Learned APP opposed the Application. Perused the charge-sheet. The incident has taken place in the intervening night between 05.06.2017 and 06.06.2017 at 2.15 a. m.. It is alleged by the Complainant – Rajesh Ramchandra Tiwari that when he was sitting in his tourist car, four unknown persons came to the spot, opened the door of the car, forcibly pulled him out and robbed him of his Gold chain and wrist watch and thereafter, assaulted him. Although, the Applicant has been identified alongwith other co-accused, no specific role has been assigned to the Applicant. There is no recovery of any of the stolen articles at the instance of the Applicant. Similarly placed co-accused, who has been identified has been enlarged on bail. The Applicant is aged 20 years and at the relevant time had attempted 12th Std. examination (second attempt) but had not cleared the same. The Applicant is in custody since 02.08.2017. Investigation is complete and charge-sheet is filed.

5. In the peculiar facts & circumstances of this case, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 25,000/-** with one or two local solvent sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned Police Station on the **first Sunday of every month** between **10:00 a. m. to 11.00 a. m.** till the conclusion of the trial;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicant to cooperate with the conduct of the trial;

(v) If there are 2 consecutive defaults in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of the Applicant's bail;

(vi) The Applicant shall file an undertaking with regard to clauses (ii) to (v), in the trial Court, within two weeks of his release.

6. The Application is allowed in the aforesaid terms and is

accordingly disposed of.

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

(REVATI MOHITE DERE, J.)