

Anand

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

BAIL APPLICATION NO. 140 OF 2019

Rajendra Baban Kale alias Pintya .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Kamlesh N. Gujar, Advocate, for the Applicant
Mr. S. V. Gavand, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.07.2019

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. 292 of 2015 registered with the Juhu Police Station, Mumbai, for the alleged offences punishable under Sections 342 & 397 of the Indian Penal Code.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that identically placed co-accused – Mr. S. Das, Mr. Shankar Kale, Mr. Ambadas Shinde & Mr. Prakash Patil have been released on bail by this Court.

4. Learned APP does not dispute the fact that the Applicant is entitled to be enlarged on bail on the ground of parity. He further submits that the Applicant has not been identified in the Test Identification Parade.

5. Perused the papers. According to the Complainant – Harishchandra Mishra, a resident of Juhu, he went to sleep at around 11.00 p. m. on 30.07.2015; that at around 2.00 a. m. on 31.07.2015, he heard dogs barking & hence came out of the room; that he noticed that the servants room was open; that he went near the room and noticed that the 2 servants were sitting on the floor; that when he asked them what had happened, suddenly, somebody assaulted him and the servants. He has stated that the accused persons after tying him and the servants, committed robbery in the house and took valuables of Rs. 2,23,000/-. The Applicant has not been identified by the Complainant or any other witness. Learned APP does not dispute, that the role of the Applicant is similar to that of other co-accused, who have been enlarged on bail by this Court. Accordingly, 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 P. R. Bond in the sum of **Rs. 30,000/-** with one or two local sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **11.00 a. m. and 1.00 p. 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 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 Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The Applicant shall attend the trial Court on every date, unless exempted;
- (vi) The Applicant to file an undertaking with regard to clauses (ii) to (v), in the trial Court, within two weeks of his release;
- (vii) If there are two consecutive defaults in appearing before

the trial Court, the prosecution will be at liberty to apply for cancellation of the Applicant's bail.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. 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.

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

(REVATI MOHITE DERE, J.)