

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

BAIL APPLICATION NO. 384 OF 2019

Ayub Najir Shaikh

...Applicant.

Vs.

The State of Maharashtra

...Respondent.

Mr. Satyavrat Joshi for Applicant.

Mrs. A.A. Takalkar, APP for the Respondent/State.

Mr. Bajsiraj P.N. No. 6978, Pimpri Police Station present.

CORAM : P.N. DESHMUKH, J.

DATE : 19TH MARCH, 2019

PC :

1. Heard learned counsel for applicant and learned APP.

Investigating Officer is present.

2. This application is for bail in CR No.625 of 2018 registered under Section 395 of Indian Penal Code, under Section 37(1) read with 135 of Maharashtra Police Act and under Section 3(25), 4(25) of Arms Act.

3. Learned counsel for applicant advanced argument on two grounds that, according to prosecution applicant, is identified by

complainant in its identification parade however said piece of evidence has no substance as according to supplementary statement of applicant dated 20.10.2018. On 6.9.2018 accused persons on being arrested were confronted to complainant in whose presence accused Ayub Mastan disclosed their names. It is therefore contended that, in view of above fact, identification parade which is admittedly held subsequently is of no consequence. The second ground put forth by applicant seeking bail is on parity with co accused Mastan Kureshi who is similarly placed, like that of applicant who is released by trial court.

4. Perusal of charge sheet along with supplementary statement of complainant, identification parade and order releasing co-accused Mastan Kureshi who is released on bail substantiated submissions advanced by learned counsel as aforesaid. It is further noted that, since complainant was already confronted with applicant prior to holding of identification parade, his evidence identifying him in identification parade is of no substance. Similarly Mastan Kureshi co-accused who is similarly situated is released on bail by trial court.

In that view of the matter and as amount of Rs.1,37,000/- as against amount of Rs.1,75,000/- involved in this crime is recovered from the accused and charge sheet is filed, application is liable to be allowed by imposing conditions as per order below.

ORDER

- a) Applicant shall be released on bail in CR No.625 of 2018 registered under Section 395 of Indian Penal Code, under Section 37(1) with 135 of Maharashtra Police Act and under Section 3(25), 4(25) of Arms Act by Pimpri Police Station, Pune on his executing PR bond of Rs.15,000/-with one surety in the like amount.
- b) While on bail applicant shall mark his presence with Dehu Road Police Station, Pune on the first date of each month, between 2.00 to 4.00 p.m. pending trial, and shall not entered within territorial jurisdiction of Pimpri Police Station except for attending trial.
- c) Application stands disposed off in above terms.

(P.N. DESHMUKH, J.)