

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

**CRIMINAL BAIL APPLICATION NO.388 of 2019**

Yaakub Ambiya Bhabhe

... Applicant

**V/s.**

The State of Maharashtra

... Respondent

.....

Mrs. Tahera Qureshi for Applicant.

Mrs. G.P. Mulekar, APP for Respondent-State.

.....

**CORAM : PRAKASH D. NAIK, J.**

**DATE : 5<sup>th</sup> MARCH, 2019.**

**P.C.:**

This is an application for bail in connection with C.R. No. I-186 of 2018, registered with Wada Police Station, Dist. Palghar, for offences punishable under Sections 395 and 120B of Indian Penal Code (hereinafter referred to as 'IPC' for short) and Sections 3 and 5 of Arms Act. The applicant was arrested on 4<sup>th</sup> September, 2018.

2. The case of the prosecution is that on 17<sup>th</sup> September, 2018, the accused committed robbery at the complainant's house by

entering through the window. The accused used country made revolver and knife to threaten the complainant and his family and looted cash and jewellery worth Rs.4,40,000/-. The FIR was lodged on 17<sup>th</sup> July, 2018. After completing investigation, charge-sheet was filed.

3. The applicant preferred an application for bail, which was rejected by order dated 18<sup>th</sup> January, 2019.

4. Learned Advocate for the applicant submitted that the applicant is falsely implicated in this case. The identification parade was conducted after two and a half months. There is no recovery from the applicant. Charge-sheet is filed.

5. Whereas learned APP submitted that the applicant is involved in the crime. He was instrument as in giving tip to the co-accused about wealth of the complainant. The applicant has been identified in the test identification parade. The complainant and other family members were threatened by the accused. The applicant is prime accused in the case.

6. The First Information Report (hereinafter referred to as 'FIR' for short) was lodged against unknown person. The applicant was allegedly identified in the parade. After conducting the parade, the supplementary statement of the complainant was recorded on 10<sup>th</sup> October, 2018. In the said statement, it is stated that he had identified five persons in the parade and one of them is Yaakub Bhabhe (applicant) and he realized that he is the person residing in his village. Thus, from the supplementary statement, it is apparent that the complainant was knowing the applicant and hence, he disclosed his name in the statement recorded after the parade. The statement does not reflect the role played by the applicant. If the complainant was knowing the applicant, he ought to have mentioned his name in the FIR, which was lodged against unknown person. The parade was conducted belatedly. There is no recovery from the applicant. Hence, case for grant of bail is made out.

7. Hence, I pass the following order:

### **ORDER**

- (i) Criminal Bail Application No.388 of 2019 is allowed and disposed off;

- (ii) The applicant is directed to be released on bail in connection with C.R. No.I-186 of 2018 registered with Wada Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report the Wada Police Station once in a month on every first Saturday between 11 am and 1 pm till further orders;
- (iv) The applicant shall not tamper the evidence and shall attend the Trial Court proceedings regularly, unless exempted by the Trial Court for some reason;
- (v) The applicant is permitted to furnish cash security in the sum of Rs.25,000/- for a period of six weeks.

**(PRAKASH D. NAIK, J.)**