

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

CRIMINAL BAIL APPLICATION NO.1702 OF 2019

Aarif Aslam Naikwade	 Applicant
versus	
The State of Maharashtra	 Respondent
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- Mr.Priyal Sarda, Advocate for Applicant.
- Ms.S.S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 26th AUGUST, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.99/19 registered with Chakan Police Station, Pimpri-Chinchwad, under sections 395, 341 of the Indian Penal Code and under section 4 r/w 25 of the Indian Arms Act and under section 135 of Maharashtra Police Act.
2. The FIR is lodged on 13/01/2019 by one Rinku Ramkumar Prajapati. He has stated that on 12/01/2019 at about 10.30 p.m. he and his associates Krushna Murari Rajendrakumar were travelling in their Bolero jeep. They were

at Chakan Talegaon road, at that time, they were intercepted by a white Swift car. The number of the car was MH-14-DX-8785. Four persons got down from the car. They opened the doors of the informant's Bolero car. The informant and his friend were slapped. They were shown sharp weapons like knife. The culprits removed Rs.6,000/- and a mobile phone from the first informant. A mobile phone from the companion Krushna Murari Rajendrakumar was also removed and thereafter they went away taking Bolero jeep with them. The FIR was lodged. Description of the offenders was mentioned in the FIR.

3. Investigation was carried out. The Applicant was arrested on 13/01/2019 and since then he is in custody.
4. Heard learned Counsel Mr.Priyal Sarda for the Applicant and learned APP Ms.S.S. Kaushik for the State.
5. Mr.Sarda submitted that in spite of his arrest in January 2019 no test identification parade is held and the charge-sheet is already filed. The only evidence against the present Applicant is the Panchanama dated 12/01/2019 carried

out at around 11.45 p.m. on 12/01/2019, in which it is mentioned that the three accused including the present Applicant were apprehended by police with their Swift car. Mr.Sarda submitted that there is no linking evidence to show as to how the Applicant was arrested and as to whether he has any connection with the Swift car.

6. Learned APP submitted that the Panchanama shows Applicant's involvement and it is sufficient to prove his guilt.
7. I have considered these submissions. In spite of being arrested in January 2019 the investigating agency did not choose to carry any test identification parade. Therefore identity of the culprits is not established. Only evidence is in the form of the Panchanama dated 12/01/2019. From the Panchanama it appears that the Swift car was recovered by police shortly within 90 minutes from the offence. However, in the entire charge-sheet there is no incriminating evidence to show how the car was intercepted and as to how the Applicant and two others were arrested. The Panchanama mentions that the Panchas had

seen the car and the accused were present on the road in the area known as Air Liquid Chowk and the Panchanama was carried out there. The charge-sheet does not contain statements of any of the witnesses including the police witnesses to show on what basis and in what manner the car was intercepted. Though the Panchanama mentions the number of the car, which matches with the number given in the FIR. However, the crucial link between the car and the present Applicant is not found anywhere in the charge-sheet. In this view of the matter, the present Applicant deserves to be released on bail. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.99/19 registered with Chakan Police Station, Pimpri-Chinchwad, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)