

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

CRIMINAL BAIL APPLICATION NO. 2148 OF 2019.

Mohd. Kadir Mohd. Itbari Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Swaraj S. Jadhav a/w Mr. Vijay R. Garad, for Applicant.
Mr. V.V. Gangwade, A.P.P for the Respondent - State.

**CORAM : REVATI MOHITE DERE, J.
DATE : 13th August, 2019.**

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No. 169 of 2019 registered with the Narpoli Police Station, Thane, for the alleged offences punishable under Sections 379, 411, 120(B) of the Indian Penal Code and under Section 15(4) of the Petroleum and Mineral Carrier Taps Act, 1962 and under Section 3 of the Public Property Damage Prevention Act, 1984.
3. Perused the papers. As far as the applicant is concerned, it is alleged by the prosecution, that the applicant as a driver of a tanker, drove

the tanker containing diesel from Bhivandi and transferred the same, to a petrol pump at Roha, Raigad. The complainant, a representative of BPCL, has alleged that the theft of diesel had taken place on 13.03.2019, 16.03.2019, 21.03.2019 and 22.03.2019, from the BPCL pipeline between Divagaon to Sonalegaon as well as from pipeline near Aovli Village, on the said dates. It is the prosecution case that, on 14.03.2019 the applicant drove the tanker containing diesel from Bhiwandi and delivered the said diesel at a petrol pump at Roha, Raigad. Learned counsel for the applicant submitted that, the applicant was not present at the time when the alleged theft of diesel took place and that the applicant cannot be foisted with the knowledge that the tanker that he was driving contained diesel which was stolen. He submitted that the applicant was only doing his job as a driver and as such, cannot be attributed with the allegations of theft. He submits that the applicant has no antecedents. Learned APP does not dispute the fact that the applicant has no antecedents and the role of the applicant. Whether or not the applicant had knowledge that the diesel was stolen, is a matter which will be decided by the Trial Court. The applicant is in custody since 29/03/2019. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid, the application is allowed on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday 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/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 co-operate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
 - vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;
 - vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.
6. The Application is allowed and disposed of in above terms.
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.
8. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)