

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2411 OF 2018

Mohd.Monir Latif Shaikh	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

Mr.Sandeep Mishra, for the Applicant.
Mr.A.R.Kapadnis, APP for State.
Mr.Anand A. Bhagat, PSI of Kashimira police station is present.

CORAM : PRAKASH D. NAIK, J.

DATE : 27th FEBRUARY, 2019

P.C. :

. The applicant is seeking bail in connection with C.R.No. I-220/2018 registered with Kashimira police station for offences punishable under sections 395, 392, 458, 382, 506 of I.P.C and under section 4, 27 of the Indian Arms Act. The applicant was arrested on 28/03/2018.

2. The case of the prosecution is that accused who had covered his face by handkerchief had entered into the residence

of the complainant. The complainant was threatened at the point of the knife. He was tied and the accused had committed robbery of cash amount of Rs.24,500/- and gold ornaments of value about Rs.8,98,500/- . The First Information Report was lodged against the unknown persons. Investigation proceeded and charge-sheet was filed. After filing the charge-sheet, the Test identification parade was conducted on 26/01/2019. Learned Counsel for the applicant submitted that there is no evidence to show involvement of the applicant in the crime. Identification parade cannot be believed as the accused had covered their faces with handkerchief. There is no CDR record implicating the applicant. The parade was conducted belatedly. There is no recovery at the instance of the applicant.

3. Per contra, learned APP submits that the applicant has been identified in the parade. There is evidence to show involvement of the applicant in the crime. It is submitted that car used in the crime was recovered from the co-accused. The statement of the witness indicated that the same was handed

over to the applicant. It is further submitted that the statement of one Santosh Verma indicates that his cellphone was used by the applicant.

4. I have perused the charge-sheet. Admittedly, the First Information Report was lodged against unknown person. There is no recovery of any nature from the applicant. The applicant has been identified after a period of 10 months from the date of incident. The statement of the complainant identifying witness was not recorded after identification to indicate as to what role played by the applicant. The cellphone which was recovered at the instance of the applicant at the time of arrest is not shown to have been used in interacting with other accused. In the call data record, on the date of incident, there was only one call between the accused. The applicant is in custody from 28/03/2008. Other case registered against the applicant had resulted in acquittal. In the circumstances, case for grant of bail is made out. Hence, the following order.

ORDER

- (i) Bail application is allowed ;

- (ii) The applicant is directed to be released on bail in connection with C.R. No. I-220 of 2018 registered with Kashimira Police Station, District - Thane on his furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

- (iii) The applicant shall report to the concerned police station once in a month on every first Saturday between 11.00 a.m. to 1.00 p.m.

- (iv) The applicant shall attend the trial Court proceedings regularly on the date of hearing, unless exempted by the trial Court.

(PRAKASH D. NAIK, J.)