

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2819 OF 2018**

Mohammed Akram Irfan Ali	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Sandeep Mishra I/b Mr. Rajesh Kumar for the Applicant

Mr. A. R. Kapadnis, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 18th JULY 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. I-220 of 2018 registered with the Kashimira Police Station, Thane, for the alleged offences punishable under Sections 395, 392, 458, 382, 506 of the Indian Penal Code; under Sections 4, 27 of the Indian Arms Act; under Sections 3(A), 6(A) of the Indian Passport Act and Section 14(A) of the Foreigner's Act.

3 Learned counsel for the applicant submits that similarly placed co-accused-Mohd. Monir Latif Shaikh has been enlarged on bail by this Court (Coram : Prakash D. Naik, J.) vide order dated 27th February 2019 passed in Bail Application No. 2411 of 2018.

4 Learned A.P.P opposed the application. He has tendered an affidavit of Police Sub-Inspector Mr. Amit Bhimrao Patil. The same is taken on record.

5 Perused the papers as well as the order dated 27th February 2019, enlarging the co-accused-Mohd. Monir Latif Shaikh, on bail. According to the prosecution, the accused had covered their faces with handkerchief and had entered the residence of the complainant and had threatened the complainant at knife point. It is alleged by the complainant that he was tied and thereafter, robbery was committed. In the robbery, cash amount of Rs. 24,500/- and gold ornaments worth Rs.8,98,500/- were stolen. Accordingly, a complaint was lodged as against unknown persons. After investigation, the charge-sheet was filed. On 26th January 2019, test identification parade was conducted.

6 A perusal of the order of co-accused-Mohd. Monir Latif Shaikh shows that he too was identified in the test identification parade, however, as the said identification parade was held after a period of ten months from the date of incident and as the statement of the complainant, identifying the said accused was not recorded after identification, to indicate the role played by the said accused and having regard to the other circumstances i.e. no recovery, etc., co-accused-Mohd. Monir Latif Shaikh was granted bail. Even as far as the present applicant is concerned, although he has been identified, the identification parade was held after ten months and no statement of the complainant has been recorded to indicate the role played by the present applicant. It appears that there is a statement of one Shantilal Jain, which shows that the applicant had accompanied co-accused-Geeta Verma to the shop for selling the gold chain stolen from the complainant's house. It appears from the said statement that Geeta Verma had handed over the said chain to Shantilal Jain and that he had paid the money to Geeta Verma, who in turn, allegedly gave it to the applicant. It is informed that there is one antecedent as against the applicant, but it is not disputed that he has been acquitted in the said case. The role of the

applicant is more or less similar to that of the co-accused-Mohd. Monir Latif Shaikh.

7 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- 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 from 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 or 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 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 to cooperate with the conduct of the trial and attend the trial Court on every date of hearing, unless exempted by the trial Court;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in 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 aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is accordingly disposed of.

9 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.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.