

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

Sneha N.
Chavan

CRIMINAL BAIL APPLICATION NO.122 OF 2020

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Sachin Raghunath Patil

.. Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Hrishikesh Mundargi for the Applicant.

Mr. Ajay Patil, APP for the Respondent/State.

**CORAM : C.V. BHADANG, J.
DATE : 2nd NOVEMBER, 2020
(Through Video Conference)**

P.C.

1. The Applicant alongwith the co-accused is facing prosecution for the offence punishable under section 307 read with section 34 of the Indian Penal Code.

2. Complainant Subhash Patil is serving as a Executive Engineer in Kalyan-Dombivali Municipal Corporation (KDMC). On 22nd March, 2019 at about 06.05 p.m., when the Complainant was passing by the foot-over bridge, leading to Dombivali Railway Station, about 3-4 unidentified persons with a scarf tied on their face, came and assaulted the Complainant by sharp edged weapon

and then the assailants fled away. The Complainant informed about the incident to Junior Engineer Mr. Rajput, who managed to take the Complainant to ICON Hospital. The Complainant lodged a complaint with the concerned Police Station, on the basis of which the offence came to be registered and after investigation, a charge-sheet is filed.

3. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

4. On hearing the learned counsel for the parties, it prima facie appears that the FIR was lodged against the unidentified persons. After the arrest of the accused, a test identification parade came to be conducted on 5th April, 2019, in which the Complainant is alleged to have identified the present Applicant and others.

5. The learned counsel for the Applicant submitted that the Complainant was not knowing the assailants and as per his own version, the assailants came with a scarf on their face and thus the alleged identification of the assailants by the Complainant is prima facie unacceptable.

He points out that the co-accused have been released on bail by the learned Sessions Judge. He further points that that the parity has been denied to the present Applicant, only on the ground of alleged recovery of a paper cutter from the present Applicant. He submits that a paper cutter is a common article and the recovery even assuming to be there, cannot be said to be an incriminating circumstance.

6. The learned APP did not dispute that except the circumstance of recovery of a paper cutter from the present Applicant, the Applicant is similarly situated with the co-accused, who has been released on bail.

7. On a careful consideration of the circumstances and the submissions made, I do find that the parity cannot be denied to the Applicant, merely on the ground of alleged recovery of the paper cutter, when in all other aspects the Applicant is similarly situated with the co-accused, who has been released on bail. Prima facie, regard can also be had to the submission based on the identification of the assailants by the Complainant, when according to the Complainant, the assailants had come with a scarf on their

face. This is not the stage to record any final opinion, which will have to be gone at the trial.

8. Considering the overall circumstances, the following order is passed :-

ORDER

- (i) The Applicant be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (ii) The Applicant shall undertake to remain present on the dates of hearing before the learned Sessions Judge, during the course of trial.
- (iii) The Applicant shall not tamper with the prosecution evidence/witnesses.
- (iv) The bail bonds to be furnished before the learned Sessions Judge.
- (v) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.