

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

CRIMINAL BAIL APPLICATION NO.614 OF 2020

Shrishail Baburao Hulle

..Applicant

Vs

State of Maharashtra

..Respondent

Mr.Mohammad S. Mulla for the Applicant.

Mr.Y.M. Nakhwa, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

**DATE : 05th OCTOBER 2020
(Through Video Conference)**

PC.

1. The applicant (Accused No.2) along with co-accused, is facing prosecution for the offence punishable under Section 394, 201, 504, 506 read with Section 34 of the Indian Penal Code.

2. The prosecution case, as disclosed from the complaint of Abbas Gulab Fakir, is that on 2nd November 2019 the complainant was going to his village Diggi for bringing tiffin for his mother who was admitted in Krushna Hospital at Solapur. The complainant came to market yard, Solapur and was waiting for a conveyance to go to his village Diggi. It is at that time that a car came there and

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the driver asked the complainant whether he wants to go to Hyderabad. The complainant informed that he wants to go Umarga and saying so boarded the car. According to the complainant apart from the driver there were two other occupants who were sitting on the back seat. After some time the driver asked the complainant to give him Rs.20/- as he wanted to purchase cigarettes and the complainant accordingly gave that amount. However, the driver did not stop for purchasing cigarettes, where upon the complainant suspected some foul play. According to the complainant he made a call to his cousin Ahmed Pathan who advised the complainant to get down at the next stop. It is the material prosecution case that after some time the complainant said that he wants to alight, when the driver asked the complainant for the fair. The complainant tendered Rs.100/-, which was not acceptable to the driver. It is at this stage that the driver is alleged to have assaulted the complainant by means of a tommy on the left shoulder. The person sitting behind also assaulted the complainant by fist blows and took away a Samsung Mobile along with Rs.40,000/- cash, which complainant was carrying and asked the complainant to alight from the car. At that time the complainant noticed the car was MH-13-DE-4891. Thereafter, the complainant lodged a complaint on the basis of which an offence came to be registered and after investigation the

present applicant and the co-accused Venkatesh Hullur are chargesheeted.

3. The learned Sessions Judge has refused to release the applicant on bail by order dated 15th February 2020, in Criminal Bail Application No.174 of 2020.

4. I have heard Mr.Mulla the learned counsel for the applicant and Mr.Nakhwa, learned Additional Public Prosecutor. Perused record.

5. It is submitted by the learned counsel for the applicant that the entire prosecution case is improbable. It is submitted that the FIR was lodged against unidentified persons and there is no proper identification of the applicant is show his complicity in the alleged offence. The learned counsel for the applicant strenuously urged that as per the complaint, the driver took out the tommy from the back side of the driver's seat, which in the submission of the learned counsel for the applicant is improbable. He submitted that it is improbable that the driver could take out the tommy from the back side of the seat while driving the car. It is submitted that the investigation is complete and the charge-sheet is filed. He pointed

out that the applicant is in custody from 08th November 2019 and further incarceration and the applicant, pending trial is not necessary. It is submitted that the applicant is young and the only bread winner in the family.

6. The learned Additional Public Prosecutor has submitted that the complainant has identified the applicant as well as the co-accused, in an identification parade conducted on 04th December 2019. He pointed out that the complainant had given the registration number of the car and on the basis of the same and the evidence of the Test Identification Parade the involvement of the applicant in the offence is *prima facie* established.

7. The learned Additional Public Prosecutor on the basis of the injury certificate submitted that the complainant has sustained an injury on the left arm by hard and blunt weapon, which is relatable to the nature of the assault. He therefore submitted that the application may be dismissed.

8. I have considered the circumstances and the submissions made.

9. *Prima facie* it appears that the complainant after alighting from the car had an occasion to note the registration number of the car and there is also identification parade in which the applicant has been identified. The record also *prima facie* shows that the complainant had sustained any injury which is in consonance with the nature of the assault as alleged. The contention on behalf of the applicant about improbability of the story as narrated by the complainant cannot *prima facie* be accepted for the reason that the FIR is not expected to give all the minor details and it is not an encyclopedia.

10. Considering the overall circumstances, I do not find that the applicant can be released on bail at this stage. In the result, the Criminal Application is dismissed. The trial is expedited. Liberty to the applicant to renew the request after 31st January 2020, if the trial does not commence by that date.

C.V. BHADANG, J.