

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

Sneha N.
Chavan

CRIMINAL BAIL APPLICATION NO.3420 OF 2019

Digitally signed by
Sneha N. Chavan
Date: 2020.11.03
13:32:37 +0530

Sunil Pandurang Ahire

.. Applicant

Vs.

The State of Maharashtra

..Respondent

**ALONGWITH
CRIMINAL BAIL APPLICATION (ST) NO.2671 OF 2020**

Gautam Waman Salve

.. Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Rameshwar Gite for the Applicant in BA No.3420/2019.

Mr. Ajay Patil, APP for the Respondent/State in BA No.3420/2019.

Mr. Mahendra Sandhyanshiv for the Applicant in BA(ST) No.2671/2020.

Mr. H.J. Dedhia, APP for the Respondent/State in BA(ST) No.2671/2020.

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

P.C.

1. The Applicants alongwith four others are facing prosecution for the offence punishable under section 395, 394, 427 read with section 34 of the Indian Penal Code, in Crime No.I-47 of 2019, registered with Killa Police Station, Malegaon District, Nashik.

2. The prosecution case as disclosed from the complaint of Mr. Dilip Laxman Bhagade is that when the Complainant was waiting for Umer Ahmed near Kankaria Showroom at about 10.00 p.m. on 25th July, 2019, three persons came on a bike, out of which one of the persons assaulted the Complainant with an iron rod near the right eye and an amount of Rs.22,346/- and a Samsung mobile was taken away. It appears that, according to the Complainant, one Navnath Waykande who was sitting in the car was also robbed of a mobile alongwith the key of the Bolero vehicle. It was alleged that the accused broke the windshield of the Bolero vehicle. Although, according to the Complainant, there were only three persons, who had come on a bike, in a supplementary statement recorded on 27th July, 2019, the Complainant claimed that there were in all six persons, who had come on two motorcycles. It appears that the present applicants were arrested in another Crime, i.e., Crime No.202 of 2019 of Malegaon Taluka Police Station and from the said offence a transfer warrant was taken and the Applicants were shown to be

arrested in the present Crime on 7th August, 2019 and since then they are in jail.

3. On hearing the learned counsel for the Applicants and the learned APP and on perusal of the record, it appears that the investigation is complete and the charge-sheet is filed. Prima facie, it appears that initially the Complainant stated that there were three persons who had come on a motorcycle and in a subsequent supplementary statement it has claimed that there were six persons. The identification parade is conducted on 16th September, 2019. The learned counsel for the Applicants submitted that prior to that a sketch of the persons involved in the incident was drawn and was circulated. On a perusal of the memorandum of the identification parade, it appears that two accused were included in the identification parade each time and they were required to be identified by the complainant and Mr. Navnath Waykande. It further appears that there were two rounds of the said identification parade conducted. The learned counsel pointed out that such procedure is not in

accordance with the procedure laid down for conduction of the identification parade in the Criminal Manual.

4. It transpired during the course of hearing that there is no recovery from the Applicant Sunil Ahire. However, from the Applicant Gautam Salve there is a recovery of Rs.1,000/-. Except the earlier offence in Crime No.202 of 2019, from where the Applicants were shown to be arrested on transfer warrant, there are no other criminal antecedents shown to their discredit.

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

ORDER

- (i) The Applicants be released on bail in Crime No.I-47 of 2019 on executing a PR Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or more solvent sureties each in the like amount.
- (ii) The Applicants shall undertake to remain present before the learned Sessions Judge during the course of trial.

- (iii) The Applicants shall not tamper with the prosecution evidence/witnesses and shall not indulge into any similar offence while on bail.
- (iv) The Applicants shall attend the concerned Police Station every two weeks between 11.00 a.m. to 1.00 p.m. till framing of the charge. The first of such attendance shall be made on 16th November, 2020.
- (v) Bail bonds shall be furnished before the learned Sessions Judge.
- (vi) The observations herein are prima facie in nature and the learned Sessions Judge shall not be influenced by the same at the trial.

C.V. BHADANG, J.