

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

CRIMINAL BAIL APPLICATION NO. 1070 OF 2020

1. Rajendra Sadanand Pawar
2. Shubham Sundaram Swami ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. M. B. Shirsat a/w M. S. Shukla and Mr. C. B. Shukla and Mr. A. Pathare, Advocate for the Applicants.

Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 25th FEBRUARY, 2021

PER COURT:

1. The applicants were arrested on 5th September, 2020 in connection with C.R. No. 965 of 2020 registered with Sakinaka Police Station, Mumbai for offences under Sections 395, 341 r/w Section 34 of Indian Penal Code and Sections 37(1), 135 of Maharashtra Police Act.

2. The case of the prosecution as mentioned in the FIR dated 16th August, 2020 is that, on 15th August, 2020 at about 20.00 hours, the complainant and others were present on duty at Universal Business Park. Five unknown persons came there. The complainant and others were threatened with knife and their mobile phones were

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snatched by them. They were threatened of dire consequences. Thereafter, one Tempo was brought inside the gate. About 20 to 25 persons entered into the gate. After sometime, the tempo was taken out of the gate. It was found that the office of Rajesh Madani situated on the 6th Floor was found open and the articles were found missing. The description of five persons referred to by the complainant has been mentioned in the FIR. Subsequently, statement of Rajesh Madani is recorded on 16th August, 2019. He provided the details of the missing articles. The applicants and the other accused were arrested on 5th September, 2020. It is alleged that there are certain recoveries at the instance of the co-accused viz. T.V, Files, Laptop, Monitor, P.C. etc. It is also the case of the prosecution that, Vileparle Police Station had recovered several articles such as Refrigerator, Files, T.V. Desktop Printer, etc. On completing investigation, charge-sheet is filed.

3. As stated above, the FIR was lodged against unknown persons. Description of five persons is mentioned in the FIR. However, pursuant to registration of FIR no test identification parade was conducted. The complainant and the other witnesses were present at the scene of offence. There was no identification parade. It was also pointed out that the articles purportedly recovered at the instance of the co-accused were not claimed by the complainant as

the same were not belonging to him. There are no criminal antecedents against the applicants.

4. Learned APP submitted that parade could not be conducted. Charge-sheet was filed, since the investigation was required to be completed within stipulated time. Apart from complainant there are two other eye witnesses. No parade was conducted for them. Even after filing of charge-sheet, the parade has not been conducted.

5. Co-accused were granted bail by this Court. In the light of the above, further detention of the applicants is not necessary. Case for grant of bail is made out.

ORDER

- (i) Bail Application No.1070 of 2021 is allowed;
- (ii) The applicants are directed to be released on bail in connection with C.R. No. 965 of 2020 registered with Sakinaka Police Station, Mumbai on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicants shall report concerned Police Station once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (iv) The applicants are permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.

(v) Application stands disposed of accordingly.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)