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

CRIMINAL BAIL APPLICATION NO.3563 OF 2019

Bharat Laxman Wagh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Dheeraj Panchange, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 13th JANUARY, 2021

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-68 of 2019 registered with the Ganeshpuri Police Station, Thane, for the alleged offences punishable under Sections 395, 120B of the Indian Penal Code and offences under the Motor Vehicles Act.
3. Learned Counsel for the applicant submits that the applicant was admittedly not amongst the 5 persons who were seen in the temple at

the time of the alleged incident. He submits that the applicant was arrested on the basis of the statement of the co-accused. He submits that the recovery of money *per se* would not point to the complicity of the applicant in the alleged crime. He submits that the applicant is a young boy, aged 22 years with no antecedents and that keeping him in further custody would expose him to hardened criminals.

4. Learned APP opposed the application. He, however, does not dispute the fact that the applicant has no antecedents.

5. Perused the papers. According to the complainant, the incident took place on 10th May 2019, between 3.10 a.m. to 3.45 a.m. It is alleged by the complainant that 5 persons entered the temple premises; that their faces were covered with black cloth; that the said persons forcibly entered the premises of the temple and assaulted him; and that the said persons broke open the door of the temple and took cash of Rs.7,10,000/- from the donation box. It appears that in the CCTV footage collected by the police, the accused have been identified and clothes have been recovered from the said persons. Admittedly, the applicant is not amongst the 5 unknown persons who were present in the temple premises. It is alleged by the prosecution that the applicant was standing outside and hence was not

seen in the CCTV footage. *Prima facie*, at this stage, mere recovery of money of Rs.40,000/- odd by itself is not sufficient to show the complicity of the applicant in the alleged crime, inasmuch as, the same is not identifiable. Investigation is complete and charge-sheet is filed. The applicant is a young boy, aged 22 years with no antecedents and keeping him in further custody would expose him to hardened criminals.

6. Considering the role of the applicant, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

O R D E R

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Sunday of every month, between 10.00 a.m. to 12.00 noon, till the conclusion of the trial;
- iii) The Applicant shall not tamper with the evidence or attempt to influence/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 immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

v) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court.

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

vii) If the applicant fails to appear before the trial Court or there is breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. 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.

9. All concerned to act on the copy of this order, digitally signed by the Private Secretary of this Court.

REVATI MOHITE DERE, J.