

Solapur for purchasing maze and had handed over an amount of Rs.29,74,000/-. The informant accompanied by the cleaner Ganesh Jadhav left for Solapur. When they crossed the water reservoir at Malad, they were intercepted by four persons coming on two motorcycles. Three out of them, alighted from the motorcycle and sat in the cabin of the truck, after which they assaulted the informant and the cleaner Mr. Ganesh Jadhav and took away the bag containing the cash. The incident happened at about 7.45 p.m.

3. On the basis of such a complaint, the offence came to be registered and after investigation, a chargesheet is filed.

4. The Applicant was arrested on 10 September 2020 and is in custody since then. The learned Sessions Judge has refused to release the Applicant on bail.

5. I have heard the learned counsel for the parties. Perused record.

6. The prosecution case as against the Applicant is based on the record of Test Identification Parade (TIP) conducted on 14 October 2020. It may be mentioned that only Ganesh Jadhav was included as identifying witness. The record of the TIP discloses that two accused were included in the TIP at one time and after the identifying witness Mr. Ganesh Jadhav identified

the co-accused by using the same dummies, the present Applicant alongwith co-accused namely Prakash Gorgal were included and it is said that present Applicant came to be identified.

7. The learned counsel for the Applicant has taken exception to the manner in which the TIP is conducted which according to the learned counsel is in breach of the guidelines laid down in the Criminal Manual.

8. Learned APP submitted that this a matter which can be gone into at the trial. Learned APP pointed out that there is one criminal antecedents against the Applicant who facing prosecution in a similar offence.

9. In my considered view, the record of the TIP makes it clear that two accused were included in the TIP together and same dummies were used which may have some effect on the acceptability of the TIP. The other circumstances is about recovery of certain amount and some ornaments from the Applicant which are said to be purchased out of the amount which was looted.

10. Considering the over all circumstances and the nature of the evidence of TIP, I find that the Applicant may be admitted to bail subject to conditions.

11. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Jadya Alias Paigambar Tayyub Mulani, be released on bail in Crime No.421/2020 of Police Station Daund, District Pune, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.
- (iii) The Applicant shall furnish his permanent address with proof to the satisfaction of the learned Sessions Judge.
- (iv) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.
- (v) The Applicant shall not directly or indirectly make any attempt to contact or otherwise tamper with the prosecution evidence or witnesses.
- (vi) The Applicant shall not indulge into any similar offence, while on bail.
- (vii) In the event of breach of any of the condition, the bail is liable to be cancelled.
- (viii) It is made clear that the observations made herein are *prima facie* in nature, and the trial Court shall decide the case on its own merits, in

accordance with law, uninfluenced by the observations made in this order.

(ix) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.