

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2330 OF 2021

Rushikesh Mohan Nigade	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr. Aniket Ujjwal Nikam a/w. Mr. Ashish Satpute, Mr. Amit Icham,
Mr. Piyush Toshniwal i/b. Mr. Vivek Arote, for the Applicant.
Mr. R. M. Pethe, APP for the Respondent / State.
HC 15667 – B. P. Bhujbal, Chandan Nagar Police Station.

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CORAM : C.V. BHADANG, J.
DATE : 21 JANUARY 2022
(Through Video Conferencing)

P.C.

. By this Application, the Applicant – Accused is seeking bail.
The Applicant alongwith others has been chargesheeted for the
offence punishable under Section 395, 396, 364, 342, 323, 506 and
201 of IPC and Section 4/25 of the Arms Act.

2. I have heard the learned counsel for the Applicant and the
learned APP. Perused record.

3. Learned APP pointed out that in the Test Identification Parade (TIP), the Applicant has been identified by the concerned witness. The learned counsel for the Applicant has placed reliance on the decision of the Supreme Court in *Umesh Chandra and Ors. Vs. State of Uttarakhand*¹ and decision of this Court in *Rakesh Vs. State of Maharashtra*² in order to submit that the evidence of TIP is not the substantive evidence and it is only the identification before the Court which is the substantive evidence. It is also pointed out that the TIP was not conducted as per the guidelines in the Criminal Manual in as much as some of the dummies which were included in the TIP were not of the same age as that of the Applicant. It is submitted that the TIP is conducted on 10 January 2020 when the Applicant was arrested on 17 October 2019 and thus TIP is delayed which loses its significance.

4. *Prima facie*, it appears that only evidence against the Applicant is of the identification in the TIP and which was conducted after three months. It transpires during the course of hearing that the Applicant is not seen in the transcript of the CCTV footage. Admittedly, there is no recovery made from the Applicant or at the instance of the Applicant. Having regard to the submissions made on behalf of the Applicant, I find that the Applicant can be released on bail. Hence, the following order.

¹ 2021 SCC Online SC 689

² 2021 SCC Online Bom 3126

ORDER

1. The Applicant be released on bail on executing a P.R. bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
2. The Applicant shall not directly or indirectly make any attempt to contact or influence or otherwise tamper with the prosecution evidence / witnesses.
3. Bail before the learned Sessions Judge.

C.V. BHADANG, J.