

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1733 OF 2015

Deepak S/o Sayanna Pawar
Age : 24 years, Occu.: Agri.,
R/o. Pithori Sirasgaon, Ghansawangi,
At present Gondi, Tal: Ambad,
Dist. Jalna

.. Applicant/
Accused

Vs.

The State of Maharashtra
through Incharge Police Officer,
Jafrabad Police Station,
Dist. Jalna

.. Respondent

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Mr. P.R. Katneshwarkar, Advocate i/b Mr. S.S. Kulkarni,
Advocate for the applicant
Mr. S.R. Palnitkar, APP for the respondent-State

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CORAM : M.T. JOSHI, J.

DATED : 27/04/2015

ORAL ORDER :

1. Heard both sides.
2. The present applicant, who is arrested by Jafrabad Police Station, Dist. Jalna in Crime no.I-8 of 2012 for the offences punishable under section 395, 397 of the Indian Penal Code and under section

3(1), 3(2), 3(3), 3(4) of the Maharashtra Control of Organised Crimes Act, is praying for his release on bail.

3. The applicant was arrested on 11/7/2012.

4. The complaint would show that on 24/2/2012, some unknown 5-6 dacoits have caused the dacoity in the house of the complainant wherein the inmates were seriously injured and the valuables worth Rs.4,30,000/- were looted. The present applicant is claimed to be one of the dacoits by the complainant. The material against him is in the nature of the test identification parade held on 3/12/2012 wherein he is said to have been identified by the eye witnesses.

5. Mr. Katneshwarkar h/f Mr. Kulkarni for the applicant submits that two of the co-accused are released on bail by the Special Court on the ground of non-filing of the chargesheet within the prescribed period. The application filed by the

present applicant however was dismissed by this Court on 8/7/2014 bearing Criminal Application no.1314 of 2014, as it was found that the application before Sessions Court was filed after filing the chargesheet. It was submitted by the learned A.P.P. that the application for cancellation of bail of those accused was contemplated. Now admittedly, no such application is filed.

6. Mr. Katneshwarkar submits that the present applicant is behind the bars since long i.e. for a period of more than 3-1/2 years. Out of the eight crimes registered against him, the applicant is already acquitted in one of the crime.

In the circumstances, relying on the ratio of **"Chenna Boyanna Krishna Yadav Vs. State of Maharashtra & Anr."** 2007(1) S.C.C. 242 and **"Gokul Bhagaji Patil Vs. State of Maharashtra & Anr."** 2007(2) S.C.C. 475, he prays for grant of bail to the applicant.

7. On the other hand, learned A.P.P. submits that besides the present crime, the applicant is accused in seven more crimes, even if we consider the crime in which the applicant is acquitted. He submits that the applicant was very well identified by the eye witnesses and at the behest of the present applicant, amount of Rs.5,000/- involved in the present crime alongwith one T.V. set (not connected with the present crime) was recovered. He further submits that the offences those are registered against the present applicant, are of similar nature like offence punishable under section 394 and 395 of the Indian Penal Code. He therefore submits that merely because the present applicant is behind the bars since last 3-1/2 years, he cannot be released on bail.

8. Upon hearing both sides, in my view, there is material against the present applicant in the present crime. Besides the same, he is also facing

trial in seven (7) more crimes. In the circumstances, in the facts of the present case, the ratio of the authorities cited supra, would not be applicable. In the result, the following order:-

9. The Application is hereby dismissed.

[M.T. JOSHI]
JUDGE

arp/-