

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.149 OF 2015

Tushar Abhimannhu Jadhav	... Applicant
vs.	
The State of Maharashtra	... Respondent

**AND
BAIL APPLICATION NO.219 OF 2015**

Rajesh Bhausahab Patil	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. Kuldeep Patil, for the Applicant in BA.No. 149 of 2015.
Mr. Nitin Sejpal a/w. Ms. Pooja Bhojane, for the Applicant in BA.No. 219 of 2015.
Mr. Arfan Sait, APP for Respondent – State.
IO. Mr. Amar Jagdale, (API), Crime Branch, Navi Mumbai present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JUNE 26, 2015**

P.C.:

. The applicants/accused in both the bail applications are facing prosecution for the offences punishable under Sections 399 and 402 of the Indian Penal Code and Section 3 read with 25 of Arms Act in the same C.R. No. 194 of 2014 registered with Kamothe police station, Raigad. Hence, both the applications are decided together by a common order.

2. The applicants/accused are arrested on 6th October, 2014. One Kiran Bhosale (PSI) attached to Crime Branch, Panvel was informed by the Senior Police Inspector that police had received credible information that some persons traveling in a Innova car are preparing for dacoity and likely to rob a petrol pump on the highway near Panvel. Pursuant to that, police including the complainant-PSI led a trap. At around 6.16 a.m. they noticed that one Innova car coming from Mumbai. They noticed four persons alighted from the car and started going towards the petrol pump. One person was seating on the driver seat of the car. Senior Police Inspector gave signal to police. Police officials stopped those four persons. At that time, out of four persons, two persons ran away from the spot and police succeeded to nab only two persons. On their personal search, a knife was found on the person of Tushar Jadhav and a pistol with one live cartridge was found on the person of Rajesh Patil. The other person who was arrested was Amandeep Singh. Police registered the offence against these three persons and two unknown persons under Sections 399 and 402 of the Indian Penal Code and Section 3 read with 25 of Arms Act. The applicants/accused are in prison since then. Hence, these applications.

3. The learned counsels for both the applicants/accused have submitted that the applicants/accused are though arrested on the spot, they are falsely implicated in this case of preparation of committing

dacoity. Both of them submitted that actual dacoity has not taken place. The police seized one small knife from the applicant Tushar. It is further submitted that the applicants/accused are subsequently shown arrested in number of crimes where the offences of theft is involved. They submitted that the applicants are not involved in those cases and they have bailed out in all those cases. It is further pointed out that the police along with three accused including the present applicants/accused have arrested two more persons from Amritsar, Punjab. However, police at the time of filing of the charge sheet exonerated other two persons by filing report under Section 169 of the Code of Criminal Procedure. They submitted that other two persons were shown as unknown persons however, their names are given as Guddu and Irfan. The learned counsels further submitted that it is a false case and to make out a case under Section 399 of the Indian Penal Code, names of these two persons are mentioned. It is submitted that in the first information report, it appears that on 6th October, 2014 in all total 14 police officials along with the complainant and Senior Police Inspector were present on the spot. However, two persons ran away from the place. It appears impossible.

4. The learned prosecutor opposed the bail applications. He produced a list of criminal record of the applicants/accused. He submitted that Innova car in which they arrived on the spot is also a stolen car for

which the offence of theft is registered at Aurangabad. He further submitted that pistol was found with Rajesh. He submitted that it is a gang who is working interstate in the commission of offences of stealing cars from Maharashtra and selling in Punjab and hence considering the offences involved and their criminal records, they are not to be bailed out.

5. Perused the first information report and other police papers and considering the criminal record of the applicants/accused *prima facie* it is seems that applicants/accused are involved in the commission of many thefts especially of the cars. The thefts were committed in a very systematic manner. One of the applicants was found with a firearm. It shows the nature of his criminal activities. However, these two accused are charged in this case for the offence punishable under Sections 399 and 402 of the Indian Penal Code. The Section 399 is for the preparation of committing dacoity. In this offence police required to show the involvement of five persons which is one of the ingredients of dacoity. In the present case, three persons are shown as they were arrested on the spot. However, two persons have absconded. The police have arrested two persons and at the time of filing of the charge sheet exonerated other two persons by filing report under Section 169 of the Code of Criminal Procedure. The names of other two persons were shown as Irfan and Guddu. As per the case of the prosecution, they are still absconding. Police are not in a position to give

full names of these persons. In view of the above circumstances, I am of the view that though the applicants/accused *prima facie* involved in the offence of theft of cars under Section 379 of the Indian Penal Code there is some gap in the commission of the present offence. Therefore, I am inclined to grant bail on the following terms and conditions:

6. Hence, I grant bail as under:

- a) The applicants/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 15,000/- (Fifteen Thousand) each with one or two solvent surety/s in the like amount;
- b) They shall attend all the Court dates regularly;
- c) They are directed to furnish their addresses of their native places along with the proof of addresses;
- d) They shall not commit any other offence including theft or any criminal activity;
- e) The violation of either of the conditions will amount to cancellation of bail forthwith and the police may apply for cancellation of bail before the trial Court, if they came across about any offence committed by them.

7. Both the bail applications are disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)