

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1008 OF 2015

1	Sandeep Shankar Desasi.	
2	Mayur Ankush Thonge.	
3	Vijendra Shivaji Kadam.	
4	Vinod Bapurao Nemane.	
5	Swapnil Dnyaneshwar Tajane.	... Applicants.
	Versus	
	The State of Maharashtra.	... Respondent.

Mr. A.P. Mundargi, Senior Counsel a/w. Mr. Abhishek Yende i/b. Mr. Hrishikesh Mundargi, advocate for Applicants.

Ms. P.P. Shinde, APP for State.

Mr. M.G. Bagale, API, Kopari Police Station, Thane.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 23, 2015

P.C.:

1 Heard the learned Senior Counsel for the applicants and the learned APP for State. Perused the papers. At the outset, the learned Counsel for the applicant submits that the name of the applicant No. 2 is Mayur Ankush Thonge. Hence, the amendment be carried out forthwith.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicants herein are arrested on 4/2/2015 in Crime No. 25 of 2015 registered at Kopari Police Station, thane for offence punishable under Section 395, 143, 147, 149 of the Indian Penal Code. Investigation is completed and charge-sheet is filed. The applicants herein are police personnels who are posted at various offices of the police department.

3 It is the case of the prosecution that on 4/2/2015 police constable of Kopari Police Station Shri Rupwantrao Shinde lodged a report at the police station that on 4/2/2015 they had learnt that some altercation has taken place in the gambling den which is run by Babu Nadar known as A1 Social Club. The police officers of Kopari Police Station had been to A1 Social Club. It was seen that there was one person who was being assaulted by Babu Nadar and his associates. At that juncture, 5 to 6 persons had come in Xylo vehicle. They had informed the people therein that they are from police department and had started assaulting Babu Nadar and his associates.

Thereafter, they had collected money which was lying there and then fled from the spot in a grey colour Xylo car. The said vehicle was followed and the present applicants alongwith others were taken to the police station and thereafter the first information report was lodged and the offence was registered.

4 The learned Senior Counsel for the applicants submits that the facts of the case are that Karan Khare who happens to be the friend of the present applicants had been to A1 Social Club for gambling. It appears that they had won an amount of Rs. 3,07,500/-. Babu Nadar and his associates had refused to make payment of the amount, which he had won and therefore, he happened to call the present applicant who were his good friends. It is also submitted that the proprietor of the Social Club had not only refused to give the amount, but had also assaulted Karan Khare and other. However, the amount of Rs. 3,07,500/- was the amount, which was won by Karan Khare. The same is seized by the police immediately. That the applicants are being charge-sheeted for offence punishable under Section 395 of the

Indian Penal Code. It is further submitted that in fact, they had not been to the den to commit decoity.

5 The investigation is completed. The applicants are in jail since 4/2/2015. In this view of the matter, after going through the facts of the case and submissions advanced across the bar, this Court is inclined to grant bail.

6 However, it is made clear that the observations made hereinabove are restricted to the application under Section 439 of the Code of Criminal Procedure, 1973 and shall not be considered while deciding the application for discharge or quashing of FIR or at the time of trial. The same be decided on its own merits in accordance with law.

7 Hence, the following order is passed :

ORDER

(i) The application is allowed.

(ii) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or more sureties in the like amount.

(iii) The applicants shall attend all the scheduled dates at the time of trial.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)