

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO.1598 OF 2014

Bapusingh Ditiya Singod Applicant
Vs.
The State of Maharashtra Respondent

Mr. Slimuddin A. Shaikh for the Applicant.
Ms P.P. Shinde, APP, for the Respondent-
State.

CORAM: REVATI MOHITE DERE, J.

DATED: MARCH 19, 2015

P.C:

1. Heard learned counsel for the
applicant and the learned APP for the State.

2. By this application, the applicant
seeks his enlargement on bail in connection
with C.R. No.I-24 of 2010, registered with
Boisar Police Station, District Thane for the
alleged offences punishable under Sections 395,
397 and 216 of the IPC and Sections 3 and 25 of
the Arms Act and under Sections 3(1), 3(2) and

3(4) of the MCOC Act.

3. The incident in question took place on 16-2-2010 at about 11:30 p.m., when the accused persons came to the Country Liquor Bar at Avadhnagar, Boisar. It is alleged by the complainant, that his brother Rakesh More had closed the Bar and was leaving for his house, on his motorcycle, when co-accused Uday Singh @ Chotu fired a shot from a country made katta, while attempting to snatch the bag containing money from Rakesh. Rakesh died on the spot due to the bullet injury received on his chest. Then all the accused allegedly ran away, after snatching the bag containing money and also snatched a money purse, gold necklace, and two gold rings. Whilst running away, the accused are also alleged to have shot one Abdulkarim Khan.

4. The learned counsel for the applicant contended that there is no material as against the applicant. He submits that three persons had entered the premises and one of them had fired a shot from a revolver on the deceased. He submits that the only allegation against the applicant is that he was present outside the premises. He further submits that the recovery of mobile phone and two gold rings at the instance of the applicant, does not tally with the description disclosed in the FIR. As far as the identification parade is concerned, he submits that although the applicant has been identified, no role has been ascribed to the present applicant. As far as nine cases which are registered against the applicant, he states that the applicant has been acquitted in all the nine cases.

5. The learned APP opposes the bail

application. She submits that there is a confessional statement of the applicant; there are four eye-witnesses who have disclosed the presence of the applicant at the spot; that the applicant has been identified in the identification parade and that there is recovery of a mobile phone and two gold rings at the instance of the applicant.

6. Perused the charge-sheet and in particular the confessional statement of the applicant recorded under Section 18 of the MCOC Act. Two persons were murdered in the said case. The confessional statement prima facie shows the applicant's involvement and complicity in the present offence. Apart from the same, the said confessional statement is corroborated by the identification parade that had been held wherein, the applicant has been identified by four witnesses and there are

statements of the four witnesses on record in support of the same. There is also recovery of a mobile and two rings at the instance of the applicant. With regard to the alleged discrepancy, in the description of articles i.e. mobile phones and rings, the same is a matter of evidence. Considering the material on record, there is sufficient prima facie material to show the complicity of the applicant. Prima facie, it cannot be said that the applicant is not guilty of the alleged offences. Accordingly, the applicant does not deserve to be enlarged on bail. The application is accordingly rejected.

7. The learned trial Judge to conduct the case on its own merits, uninfluenced by the observations made in the present order, which are prima facie in nature.

(REVATI MOHITE DERE, J.)