

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2059 OF 2014

Shri Rajdatta Bhaurao Rane	...	Applicant
vs.		
The State of Maharashtra	...	Respondents

Mr. Aniket U. Nikam, Advocate for the applicant
Mrs. R. V. Newton, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 3rd February, 2015.

P.C.

Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is shown to be arrested on 7.1.2014 in Crime No.258 of 2013 registered at Upnagar Police Station for the offence punishable under Sections 395, 342, 170, 171, 120-B of the Indian Penal Code. The investigation is completed and charge-sheet is filed on 4.4.2014.

2(a) It is the case of the prosecution that Uttamrao Darade was working as a Manager in the office of Mannipuram Finance Ltd., Nashik Road. According to him, on 1.10.2013, he along with staff was keeping the mortgaged gold in the Strong Room. The keys were with the Assistant Manager Mahendra Handge.

On that day, at about 5.20 p.m., three persons came to the office in a Uniform. They informed that they were police officers. They had shown a letter to the Manager and had informed the Manager that they had visited the office to conduct test identification parade. They had brought two persons whose faces were covered. The staff refused to identify the said persons. Suddenly, they had closed the shutter of the said office, threatened the staff members and had conducted dacoity in the said office. They had taken away cash of Rs.3,24,000/- and gold worth Rs.3,00,00,000/-. The complainant had given the description of the persons who had committed dacoity in the said office. On the basis of his report, Crime No.258 of 2013 was registered and investigation was set in motion.

(b) On 5.1.2014, the present applicant was arrested in Crime No. 142 of 2013 registered at Thane Police Station. In the said case, the allegations against the accused were for the offences punishable under Sections 452, 392 read with Section 34 of IPC. The police had filed a report under Section 169 of Cr.P.C. in Crime No.142 of 2013. On the basis of statement of the complainant, Smt. Vijaya Vishram Sawant which was recorded on 21.2.2014. It was specifically contended in the said report that in the course of investigation, it was revealed that the accused persons are accused in Crime No.258 of 2013 registered at Upnagar

Police Station. The investigating agency has specifically stated that as far as Crime No.142 of 2013 is concerned, there is no evidence to connect him in the said offence. On 7.1.2014, the applicant was transferred from Crime No.142 of 2013 to Crime No.258 of 2013. In the course of investigation, there was recovery of gold at the instance of the brother of the present applicant. The recovery was at the instance of Chandrashekhar Rane on 7.1.2014. The said accused had also directed the investigating agency to one Santosh, to whom he had sold the stolen gold articles.

3. The learned counsel for the applicant submits that the applicant is working as a drummer. According to the learned counsel, it is true that there is huge recovery at the hands of his brother Chandrashekhar and that the present applicant is being arraigned by the investigating agency only because he happens to be the brother of Chandrashekhar.

4. The learned APP submits that both the brothers had taken on rent the house of one Jagdish Nirgude. However, the learned counsel submits that the present applicant stays along with his family at Shreyas Apartment. That he is working as a drummer.

5. The very fact that Section 169 report is filed in Crime No.142 of 2013 would show that the applicant herein was not involved in the said offence. There is no recovery at the instance of the accused under Section 27 of the Indian Evidence Act. Prima facie, the applicant has made out a case for grant of bail.

6. It is made clear that none of the co-accused shall not claim parity with the present applicant.

7. The observations made hereinabove are prima facie in nature and the Sessions Court shall not be influenced by the above observations while deciding application for quashing of FIR or discharge application or at the time of trial.

ORDER

(i) The application is allowed. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

(ii) The applicant shall report to Upnagar Police Station on first Sunday of every month till the conclusion of the trial.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)