

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2183 OF 2014

Mudaswami @ Murti Padyamuttu Thewar	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. Nitin Sejpal a/w. Mrs. Pooja Bhojane, for the Applicant.
Mr. D.P. Adsule, APP for Respondent – State.

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

DATE: **JUNE 26, 2015**

P.C.:

. The application is moved for bail. The applicant/accused is facing charges for the offences punishable under Sections 395 and 427 of the Indian Penal Code and Sections 37 and 135 of the Bombay Police Act and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (MCOC). One Ashish Chitnis has given the complaint on 26th June, 2013 pursuant to which the offence was registered at C.R. No. 52 of 2013 with Khandeshwar police station, Navi Mumbai.

2. It is the case of the prosecution that complainant was working at a Petrol pump, Kalamboli. On 26th June, 2013 at around 4.30 p.m. he

along with the owner of the petrol pump and his colleague were going in the car. It is alleged that when the car was stopped outside the gate of one building where his employee went, at that time, four persons surrounded the car. They were armed with the weapons and they asked them to get down of the car. They broke the glass of the car and took away three bags of the complainant and the owner of the petrol pump and ran away. Thus, they were robbed of Rs. 13,000/-.

3. It is further case of the prosecution that, one Maruti Esteem car met with an accident within half an hour of the incident and one of the accused who was injured was taken to the hospital and others ran away. Police found that accused who was caught was Anand Kalidas Harijan and the amount and other documents were found in the car. Thereafter, in pursuant to the clues received, police arrested present applicant/accused on 24th July, 2013. Hence, this bail application.

4. The learned counsel for the applicant/accused has submitted that there is no evidence against the applicant/accused. He is innocent. He has submitted that though the name of the applicant/accused was known to the police, he was arrested after one month of the incident. The possibility of showing the witnesses can not be overruled. In the T.I. Parade

which was conducted on 28th February, 2014 only one accused was identified. Such identification is doubtful. He further submitted that there is evidence of recovery of a bag at the instance of the applicant/accused. However, such recovery can not be believed. He submitted that the applicant/accused was involved in only one similar offence. Hence, he be released on bail.

5. The learned prosecutor has opposed the bail application. He relied on the statement of Pravin Darvada, a eye witness. He submitted that Pravin identified two accused in the T. I. Parade. He submitted that Pravin identified the present applicant/accused in the T.I. Parade with a specific role attributed to him that the applicant/accused broke open the glass of the car with the help of a sickle. It is further submitted that a black colour bag which was recovered under Section 27 of the Evidence Act on 27th July, 2014 from the applicant/accused is also identified by the witness Pravin. He further submitted that the accused Anand Harijan who was arrested on the spot is a leader of the gang and there are many offences of theft and robbery registered against him. He pointed out that one offence under Section 392 of the Indian penal Code is registered at Shivaji Park police station, Mumbai against the applicant. Under such circumstances, as the co-accused is arrested on the spot and amount is recovered at the

instance of the applicant/accused, there is ample evidence against the applicant/accused.

6. Perused the first information report. Perused the documents relied by the prosecution. There are two eye witnesses and one of them has identified the applicant/accused in the T.I. Parade. There is recovery of a bag and moreover the co-accused was arrested immediately after the incident. There is antecedents against the applicant/accused. He is charged under the Maharashtra Control of Organized Crime Act (MCOC). Therefore in view of section 21 of the MCOC Act, I am not inclined to grant bail to the applicant/accused.

7. Hence rejected.

(MRS.MRIDULA BHATKAR, J.)