

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2599 OF 2014

Mr. Kumar Shubam @ Kallu Roy .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr. Rohan Nahar for the Applicant.

Mr. J.H. Ramugade, A.P.P. for the State/Respondent.

CORAM :- SMT. SADHANA S. JADHAV, J.
DATED :- 3rd MARCH 2015.

PC. :-

1) Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 29th October 2012 in Crime No.170 of 2012 registered at Yavat Police Station for the offences punishable under Sections 395, 307, 341, 427 of I.P.C. The investigation is completed and charge sheet is filed.

2) It is the case of the prosecution that on 14th August 2012, Ganesh Sathe had lodged report at the Police Station alleging therein that he is working as an Toll Administrator at Kasurdi Toll Naka and the daily collection is deposited in the Bank of India. It is alleged that on 14th August 2012 at about 8.00 a.m. he had collected the daily collection of Rs.4,92,159/- and was proceeding with the gunman to the driver to go to Uruli Kanchan to deposit the said amount. He was proceeding in Tata Sumo Jeep No.MH-12/AN/9963. A Bolero jeep

had overtaken him and thereafter 4 to 5 persons had alighted from the said Bolero jeep. They were armed with weapons. They had taken the bag filled with daily collection. They had also fired the bullets from the gun. On the basis of his statement, Crime No.170 of 2012 was registered.

3) The applicant herein was transferred from Crime No.139 of 2012 registered at Tembhurni Police Station. In the said crime the provisions of M.C.O.C. were made applicable. The applicant was enlarged on bail by the Special Court. The learned Sessions Court has observed that the applicant is a student. In the said case there was recovery of amount of Rs.2,50,000/- from his residential house in Patna (Bihar). The learned Special Court has also arrived at conclusion that the provisions of M.C.O.C. were not applicable in the said case and has granted bail. In one of the case of the same nature, the applicant has been discharged.

4) The learned counsel for the applicant submits that the applicant is a student. The learned counsel for the applicant has placed reliance upon the observations of the learned Special Court that the applicant herein was accidentally involved in the M.C.O.C. case. Learned A.P.P. submits that he has no instructions as to whether the said order has been challenged or is yet to be challenged. In the present case, there is no recovery at the instance of the present applicant. Learned counsel for the applicant has drawn the attention of this Court to the subsequent statement of the eye witnesses.

Eye witnesses were informed that the applicant was arrested in the present case. The learned counsel challenges the mode in which the test identification parade was conducted.

5) Be that as it may, the evidence of the test identification parade depends only on corroborative evidence. Taking into consideration the facts and circumstances of the present case, the applicant has made out the case for grant of bail.

5) It is made clear that the observations made herein above are prima facie in nature and shall not be considered for the purpose of quashing of F.I.R. discharge application or at the time of trial.

Order

- (i) The application is allowed.
- (ii) Applicant be enlarged on bail on furnishing PR. Bond in the sum of Rs.50,000/- and one or more solvent sureties in the like amount.
- (iii) The applicant shall furnish one local solvent surety.
- (iv) The applicant shall attend Yavat Police Station on First Sunday of each month till the conclusion of trial.
- (v) The application is allowed and disposed of.

(SMT. SADHANA S. JADHAV, J.)