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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.290 OF 2016

Ganesh Gorakh Bhise	 Applicant
V/s.	
The State of Maharashtra	 Respondent

WITH
CRIMINAL BAIL APPLICATION NO.675 OF 2016

Nitin Vasantao Pardhi	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Satyavrat Joshi, for the Applicants in both applications.
Mrs. Veera Shinde, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 20th JULY, 2016.

P.C. :

1. Applicant Ganesh Bhise (in Bail Application No.290 of 2016) and applicant Nitin Pardhi (in Bail Application No.675 of 2016), accused in C.R.No.70 of 2015, registered with Miraj Police Station, for offences punishable under Sections 395, 420, 170, 342, 120(B) of the Indian Penal Code, by these applications are praying for bail, during pendency of trial.

2. Heard the learned counsel for applicants and the learned APP.

3. The learned counsel for applicants argued that after the alleged incident, applicants were subjected to test identification parade, held by the Executive Magistrate. The learned counsel argued that test identification parade was conducted flagrantly in disregard to the norms laid down by this court in the Criminal Manual. The learned counsel further argued that only five dummies were kept in the parade. No panchas were there, the age and other particulars of dummies are not reflected in the test identification parade. Signatures of panch witnesses are also not finding their place in the memorandum of test identification parade. The learned counsel, therefore, submitted that after filing of the chargesheet, applicants are entitled for bail.

3. The learned APP opposed the application by contending that personal search of applicant Ganesh has resulted in recovery of cash as well as gold. Similar recoveries also effected from applicant Nitin. The learned APP submitted that statements of Sarita Jadhav shows that there was preparation for committing this offence.

4. Perused the chargesheet. F.I.R. came to be filed on 28.3.2015. The incident occurred in the night hours of 27.3.2015 at the residential house of informant Sarita Jadhav. The F.I.R. reveals that at

about 9.15 p.m. on 27.3.2015, when informant was present at her house alongwith her family members, 4 to 5 persons came inside her house and questioned the inmates of house as to whether this house is of Tayappa Jadhav. They were wearing identity cards and posing themselves as Officers of the Crime Branch of Mumbai as well as Officers of the Income Tax department. The mobiles phones of inmates of house were collected by dacoits and the door of the house was closed. According to the informant by threatening and assaulting her husband and her son, those dacoits collected keys of locker and robbed the informant and her family members of cash and valuables amounting to more than Rs.8.60 lacs.

5. Perusal of chargesheet shows that on 6.4.2015, personal search of applicant Ganesh was taken at the time of his arrest. Cash and gold jewellery came to be recovered from him under panchnama. Similarly, on information police squad, effected a raid to apprehend some of accused persons including applicant Nitin Pardhi. At that time gold jewellery as well as cash came to be recovered from applicant Nitin Pardhi.

6. Arrested accused including present applicants were subjected to test identification parade. Applicant Ganesh came to be identified by Nilesh Jagtap and Ankita Abhijit Jadhav whereas Nitin Pardhi came to be identified by Aniruddha Abhijit Jadhav and Ankita Abhijit Jadhav. The test

identification parade is primarily conducted in order to ascertain whether investigator is investigating the offence by choosing correct line of investigation in the offence. Ultimately dock identification is substantial evidence. As such lacuna in the test identification parade is of no consequence at this stage. It is seen that present applicants as well as co-accused have committed dacoity in a pre-planned manner posing themselves as Officers from Crime Branch and Income Tax. It is seen that applicant Ganesh had been to the barber shop for hair cut of police style. It is seen that CCTV footage is collected by prosecution. There is enough evidence to connect the applicants to the crime in question. The offence under Section 395 of Indian Penal Code punishable with imprisonment for life. As such the case in hand is not fit case for releasing applicants on bail. In view of this, both these Applications are rejected.

[A. M. BADAR, J.]