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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.957 OF 2016

Sameer Mannwar Pinjari and Anr.

..Petitioners.

V/s.

State of Maharashtra and Ors.

..Respondents.

Mr.L.P. Kanal for the petitioners.

Mr.J.P. Yagnik, APP for the respondent-State.

**CORAM : NARESH H.PATIL AND
A.M.BADAR, JJ.**

DATED : 5TH APRIL, 2016

P.C. :-

1. By this petition under Articles 226 and 227 of the Constitution of India, the petitioners are praying for transfer of proceedings of case bearing C.R. No.I-40/2015 registered with Vadivare police station, District Nashik from the file of Sessions Case at Nashik to Sessions Court at Thane, apart from directing respondent to release the gold in favour of petitioner No.2.

2. The facts in nutshell to be gathered from the pleadings are thus :-

Petitioner No.1 Sameer, was working as a Supervisor with Sequel Global Critical Logistic Pvt. Ltd. who undertook the job of transportation of gold to petitioner No.2 Shirpur Gold Refinery Ltd. Accordingly, 60 gold bars having weight of 1 kg. each were being transported in a van in the night intervening between 23rd and 24th April, 2015 on Mumbai -Agra highway. At Kasara, the van was intercepted and accused persons looted the gold bars in the dacoity. Accordingly, Crime bearing No.I-40/2015 for offence punishable under section 395, 342 of the Indian Penal Code, 1860 as well as under sections 3 and 25 of the Arms Act came to be registered against five unknown persons. The incident in question occurred within the territorial jurisdiction of Nashik District. After investigation, charge-sheet came to be filed in the Court of learned J.M.F.C., Igatpuri and as the offence alleged against the accused are triable by Court of Sessions, learned J.M.F.C., Igatpuri committed the case to the Court of Sessions at Nashik.

3. It is seen that the petitioner No.2 had preferred an

application on 1st September, 2015 for release of gold lying in the custody of Vadivare police station and after considering the case of the prosecution, learned J.M.F.C., Igatpuri, District Nashik was pleased to reject the said application. The petitioners are now praying for transfer of the Sessions Case arising out of Crime No.I-40/2015 with the Vadivare police station from the Sessions Court, Nashik to the Sessions Court at Thane.

4. Heard learned counsel appearing for the petitioners at sufficient length. According to him, charge sheet is filed by the officers of the Crime Branch, Thane Unit No.5 and the petitioners are required to attend the case at Nashik. They are required to travel from Mumbai to Nashik. Learned counsel for the petitioners further argued that the accused persons are lodged in Thane Central Jail and they are required to be produced before the Court at Sessions at Nashik. Hence, according to learned counsel for the petitioners, the Session trial needs to be transferred to Thane from Nashik.

5. It is not in dispute that crime in question has allegedly been alleged committed within the territorial

jurisdiction of Sessions Court, Nashik. F.I.R. in respect of the said offence was registered at Vadivare police station, District Nashik. Section 177 of the Code of Criminal Procedure, 1973 provides that every offence shall ordinarily be investigated into and tried by the Court within whose local jurisdiction it was committed. In the instant case, the alleged offence has been committed within local limits of jurisdiction of the Sessions Court, Nashik. As such, merely because accused persons are lodged in Thane Central Jail and that the petitioners are required to travel from Mumbai to Nashik cannot constitute sufficient ground for exercising our extraordinary jurisdiction to transfer the trial from Sessions Court, Nashik to Sessions Court, Thane. So far as the other grievance of the petitioners is concerned, petitioners have remedy to challenge the order rejecting their application for delivering the seized property before the appropriate forum.

6. In the result, the petition is devoid of any substance and the same is dismissed.

(A.M. BADAR, J.)

(NARESH H.PATIL, J.)