

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 861 OF 2016

Avinash @ Santosh Ashok Tompe
V/s.

.....Applicant

The State of Maharashtra

....Respondent

Mr. Sachin R. Pawar Advocate for Applicant.

Mr. S. H. Yadav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 29, 2016.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 17/11/2015 in crime no. 563 of 2015 registered at Nigadi Police Station for offence punishable under sections 307, 394 of the Indian Penal Code.

2) The papers of investigation i.e. the compilation of the charge-sheet would indicate that on 18/11/2015, the statement of the Applicant was recorded, wherein he has disclosed to the police that he was residing with his friend Pappu Pawale. 3 to 4 months prior to 17/11/2015, he had seen the manner in which the cash was deposited and withdrawn from T.J.S.B. Bank at Chinchwad, Branch. He had conducted a surveillance. He had noticed that

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there is only one security guard who does not have a weapon. He therefore, was of the opinion that he could loot the bank, in the eventuality that he would show his pistol and therefore, had acquired a country made pistol and attempted to loot the bank.

3) The learned counsel for the Applicant submits that the said statement was recorded while in police custody and therefore, the same cannot be taken into consideration as it is inculpatory statement, however, the said statement is corroborated by independent evidence. Applicant was arrested with the country made pistol. That the co-accused is also charge-sheeted for similar offences. In the course of investigation, three live cartridges were found from the person of the present Applicant.

4) On the basis of material in the charge-sheet and the gravity of the allegations, Applicant does not deserve to be enlarged on bail. It is made clear that observations made herein above are prima facie in nature and shall not be considered at the time of trial.

5) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)