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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.943 OF 2016

Suraj Navnath Munde

..Applicant.

V/s.

State of Maharashtra

..Respondent.

Mr.Veerdhaval Kakade i/b. Mrf.Prabhakar M.Jadhav for the applicant.

Mr.S.S. Pednekar, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 3RD AUGUST, 2016

P.C. :-

1. The applicant / accused in Crime No.309/2015 for the offences punishable under section 395 and 363 of the Indian Penal Code and under section 3(25) of the Arms Act registered with Indapur Police Station, District Pune by this application is praying for releasing him on bail after filing of the charge-sheet.

2. Heard the learned counsel for the applicant. He pointed out that except statements of Sunder Kusalkar and Pravin Chopde in no other statement of witnesses, the name

the applicant is appearing. The learned counsel argued that the F.I.R. of committing theft of Scorpio was in fact registered after the F.I.R. in this offence.

3. The learned APP opposed the application by submitting that the offence is serious. The learned APP fairly stated that he has sought adjournment in this case on several occasions in order to ascertain as to whether test identification parade was conducted or not, but he has not received information on this aspect.

4. Perused the charge-sheet. The F.I.R. came to be lodged against unknown dacoits by a truck driver named Akhtar Phulari. According to the prosecution case, Akhtar Phulari was transporting tin sheets by loading those sheets in the truck on 15th October, 2015. At about 2.30 a.m. of that night his truck was intercepted by Scorpio vehicle and he was made to sit in the Scorpio vehicle. Thereafter, unknown accused persons robbed him of cash and valuables worth Rs.69,000/-. The informant has stated that by using his ATM card, the dacoits have withdrawn an amount from his account during that night and ultimately, he and his cleaner were left

at the MIDC area.

5. The prosecution is relying on the statement of owner of the Scorpio. According to the prosecution case, the present applicant had committed theft of Scorpio on 12th October, 2015 and thereafter, it was used for committing this offence in the night intervening between 15th October, 2015 and 16th October, 2015. Nothing is seen from the charge-sheet in order to show that Pravin Chopde, owner of the Scorpio had identified the present applicant. Similarly, it appears that the prosecution has not conducted the test identification parade by summoning the informant and his associate. Statement of Sunder Kusalkar only shows that the present applicant had been to his shop on 15th October, 2015 for changing the number plate of the Scorpio vehicle.

6. Considering the nature of evidence available against the present applicant and as investigation is over, his pre-trial detention is not warranted. Hence the order :-

(i) The application is allowed;

- (ii) The applicant / accused in Crime No.309/2015 for the offences punishable under section 395 and 363 of the Indian Penal Code and under section 3(25) of the Arms Act registered with Indapur Police Station, District Pune be released on bail on his executing P.R. bond in the sum of Rs.15,000/- with one or more surety in the like amount;
- (iii) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;
- (iv) The applicant / accused shall inform his latest place of residence and cell number after his release and continue to inform the change in residence or cell number, if any, from time to time to the concerned Court;
- (v) The applicant / accused shall co-operate for expeditious disposal of the trial;

(vi) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;

(vii) The application is disposed of accordingly.

(A.M.BADAR, J.)