

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1214 OF 2016

Vinod Machindra Jadhav.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Yashodeep Deshmukh i/b Mr. Subhash Hulyalkar, advocate for Applicant.

Ms. Veera Shinde, APP for State.

Mr. A.T. More, ASI, Aalephata Police Station, Pune.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 21, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 12/2/2016 in Crime No. 19 of 2016 registered at Aalephata Police Station for the

offence punishable under Section 395, 397 of the Indian Penal Code. Investigation is completed and charge-sheet is filed on 2/5/2016.

3 It is the case of the prosecution that on 4/2/2016 Krishna Chavan lodged a report at the police station alleging therein that he is working as a driver on the truck owned by Adinath Bhatkal. That on 3/2/2016 the owner of the truck had called upon him and asked him to go to Kalyan alongwith villagers at Kalyan. There was a sale of buffaloes and the villagers were going to Kalyan to participate in the said sale. They had proceeded from Ahmednagar Kalyan Highway. The another truck of the said owner was followed by the truck driven by the complainant. At about midnight, they had stopped to have tea and thereafter, were proceeding from village Mouze Gulanchwadi. The complainant suddenly became aware that the trucks were being followed by 3 motorcycles. That after driving some distance, the motor cycles had intercepted the trucks. The riders had taken charge of the trucks. They had threatened the villagers who were going to purchase buffaloes at Kalyan. That they had taken about Rs.

1,20,000/- from the passengers and then fled from the spot on the motorcycles.

4 In the course of investigation, it was transpired that the present applicant had accompanied Avinash Jadhav on his motorcycle as a pillion rider of the person who was on the motorcycle and participated in the said incident. It is a highway dacoity. The applicant was subjected to test identification and was identified by the complainant as one of the person who had committed decoity.

5 Learned Counsel for the applicant submits that no specific role has been attributed to the present applicant either by the complainant or witnesses. That the applicant is permanent resident of Taluka Haveli, District Pune and is having cloth store at Haveli.

6 As against this, the learned APP submits that in fact, the first information report was filed against unknown persons. That one of the accused namely Omkar Shejwal was arrested on the spot.

Thereafter, in the course of investigation, the names of other accused had transpired. Remand yadi of 11/2/2016 clearly indicates that the police were searching for the present applicant at his given address at Haveli and he was not found at the given address of the present applicant. That itself shows that he was absconding.

7 The learned Counsel submits that since Omkar Shejwal is arrested on the spot, the applicant had got panic and was not found at the given place.

8 It is admitted that the applicant had accompanied Avinash at the time of incident. Since charge-sheet is filed under section 395 of the Indian Penal Code, it is not necessary that there is specific act attributed to each of the accused, more particularly because the FIR is filed against unknown persons. The applicant is identified in test identification parade. There is direct evidence against the applicant.

9 Learned Counsel submits that the applicant has no criminal antecedent and that his father has retired as government servant. However, the status of the father cannot be taken into consideration in view of the act committed by the present applicant. Hence, the applicant does not deserve to be enlarged on bail.

10 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

11 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)