

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1310 OF 2015

Mr. Sameer Nasir Pathan	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Sanjiv Sawant, Adv. a/w. B.K. Barve, Adv. a/w. Sandip Barve, Adv. a/w. Archana Lad, Adv. a/w. Shital, Adv. i/b. B.K. Barve & Co. for the applicant.

Mr. D.P. Adsul, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 15th January, 2016.

P.C. :

1. This is an application for bail filed by the aforesaid applicant who is facing trial in MCOC Special Case No.1 of 2013 arising out of Crime No.I-284 of 2012 registered at Ambad Police Station, Nashik for offences punishable under Sections 392, 395, 120B, 109 & 412 of the IPC r/w. Section 3 and 25 of the Arms Act and under Section 135 of the Bombay Police Act r/w. Section 3(1) (II) (III) (2) and (3) & (4) of MCOC Act, 1999.

2. The case of the prosecution in brief is that on 27th September, 2012 about 9.25 hrs. The complainant Mukund Mandge

had carried sum of Rs.81 lacs in two travel bags to his office. His partner Gulab Khairnar had come to the office along with two bags containing cash of Rs.46 lacs. As they were about to start finalizing the accounts four persons entered the cabin with a pistol and knife. They sprinkled chilly powder and one of the persons fired a bullet and committed theft of the said amount and left the office by locking them inside.

3. The complainant Mandge lodged a FIR against four unknown persons for committing theft / robbery. Pursuant to the said FIR the aforesaid crime was registered. In the course of the investigation the applicant and the co-accused were arrested. Upon completion of investigation, chargesheet was filed and the case being sessions triable was committed to the Sessions Court, Nashik. The applicant had filed application for bail before the sessions court which was dismissed by the Addl. Sessions Judge-6, Nashik by order dated 9th December, 2013. Hence the present application.

4. Heard Mr. Sawant, the learned counsel for the applicant and Mr. Adsul, the learned APP for the State. At the outset it may be mentioned that the learned counsel for the applicant had made a

categorical statement that this was the first application for bail filed by the aforesaid applicant in this case. Furthermore in paragraph 17 of the application the applicant has made a specific statement that no other application was either filed before this Court or before Apex Court after the dismissal of the bail application on 9th December, 2013. The learned APP has however placed on record a copy of the order dated 20th January, 2015 in Bail Application No.1837 of 2014, a perusal of the said order negates the statement of the learned counsel, as the order reveals that the applicant had earlier filed an application for bail and that the same was dismissed as withdrawn. In an attempt to justify the statement, the learned counsel for the applicant submitted that the said bail application was filed before filing of the chargesheet. However, the learned APP under instructions has submitted that the chargesheet was filed on 2nd April, 2013. Hence the statement made by the learned counsel for the applicant is apparently incorrect and misleading.

5. Be that as it may, the records prima facie reveal that the complainant had lodged a complaint against four unknown persons for entering his cabin with a pistol and knife and committing robbery of an amount of Rs.1,03,50,000/-. In the course of the investigation,

the applicant was arrested and an amount of Rs.1,35,250/- was recovered pursuant to the disclosure statement made by the applicant. The records further reveal that the complainant had identified the applicant in the identification parade held by the Executive Magistrate. The material on record therefore prima facie shows the involvement of the applicant in committing the said crime which is of serious nature.

6. It is also pertinent to note that in the affidavit filed before the Court, the investigating officer has stated that the applicant is a habitual offender and more than 34 crimes are registered against him in different police stations. The list of said crimes is annexed to the affidavit at Annexure - A. The records therefore reveal that the applicant is a habitual offender. The criminal antecedents of the applicant would not justify grant of bail.

7. Under the circumstances and in view of discussion supra the application is dismissed.

(ANUJA PRABHUDESSAI, J.)