

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1542 OF 2016

Ashvin Gulabsingh Shivach Alias Ajay

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ganesh Gole Advocate for Applicant.

Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 19, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 30/04/2016 in crime no. 27 of 2016 registered at Nhava Shiva Police Station for offence punishable under section 407 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that the present Applicant is working with Attri Transport as a Field Officer. That the owner said logistic compnay is one Mukesh Sharma. That on 19/04/2016, one Anil Kavad lodged a report at the police station alleging therein that he is into the business of export of embroidery cloth material to various countries such as Nigeria and other countries. Between 16/04/2016 and 18/04/2016, he was to receive the goods.

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On 14/04/2016, drivers of the logistic company had taken the material in custody for transporting it to Nhava Sheva Port for the purpose of export. It is alleged that the goods never reached Nhava Sheva port but were instead taken to Vapi through Attri Logistic Company. In the course of investigation, Investigating Officer had recorded the statement of one Chandrakant Kaushik who has disclosed that on 16/04/2016, he had received a request from the present Applicant, requesting him to make arrangements for transport of the goods to Vapi as he did not have sufficient vehicles as well as labourers. It is alleged that the Applicant who is employee of Mahesh had only followed the instructions of his employer and that he had no knowledge that the said goods were stolen goods. He had accompanied the truck to Vapi and the goods were transported to the place as directed by the employer of Attri Company.

3) The learned counsel for the Applicant rightly submits that at that stage of transportation, Applicant had no knowledge that they were stolen goods. In any case, he was only obeying the instructions of his employer. The goods are recovered. The employer of the Applicant is in custody.

4) Investigation is completed and charge-sheet is filed. Hence, Applicant deserves to be enlarged on bail. However, it is made clear that observations

made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial. It is further made clear that co-accused including the owner of the said firm or the person who were instrumental in transporting the said goods shall not be entitled to bail on the ground of parity with the present Applicant.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on furnishing P.R. bond in the sum of Rs. 25,000/- with one or two local sureties in the like amount.
- (iii) Applicant shall not leave the jurisdiction of Maharashtra without prior permission of the Court.
- (iv) Applicant shall furnish his permanent address, landline/cellphone number, etc.
- (v) Applicant shall continue to co-operate with the investigating agency as and when called by issuing a notice under section 160 of Code of Criminal Procedure, 1973.
- (vi) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)