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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1682 OF 2015

Rohan Vishwanath Dimbale

.... Applicant

V/s.

The State of Maharashtra

.... Respondent

Mr. Priyal G. Sarda, for the Applicants.

Mrs. Veera Shinde, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 5th JULY, 2016.

P.C. :

1. The applicant/accused in Crime No.99 of 2014, registered with Rajgad Police Station, District: Pune, for the offence punishable under Sections 395, 397 of the Indian Penal Code and under Sections 3(1)(ii), 3(2) and 3(4) of MCOC Act, 1999, by this application is praying for releasing him on bail.

2. Heard the learned counsel for applicant. He argued that informant Maula Tayyab Shaikh as well as witnesses Manisha Dhumal and Pradip Gole are not naming the present applicant, who is not even identified in the test identification parade. He further argued that confessional statement of accused Jivan @ Suny Sunil Pratap is

exculpated and the alleged recovery of some amount from the present applicant is of no consequence. It cannot be said that money recovered is unaccounted.

3. The learned APP opposed the application by pointing that there is evidence regarding recovery and confessional statement of co-accused. Perused the charge sheet. The informant Maulana Shaikh, is Manager of Petrol Pump at Kelwade. On 2.6.2014, he was taking amount of collection of petrol pump for depositing the same with another petrol pump at Varve Bk. According to prosecution case, on Satara Pune Road at Kalyan Dhaba, four persons came on two motorcycles from backside of Maulana Shaikh and threw chilly powder in his eyes. Thereafter he was assaulted by sharp edged weapon and sack containing amount of 20,57,380/-, came to be looted from him.

4. According to prosecution case, applicant/accused is one of the member of organized crime syndicate involved in the crime in question. It is not in dispute that two charge sheets are filed against present applicant. It is seen that applicant came to be arrested on 12.6.2014, and amount of Rs.1,30,000/- was found on his person. The search of the house of present applicant yielded in recovery of Rs.10,60,000/-. Though it is averred that confessional statement of Jivan @ Suny Sunil Pratap is exculpatory, the perusal of the same does not

appear to be so. He had taken part in the crime in question and accompanied co-accused upto certain extent, where he was asked to wait in order to enable safe escape of co-accused. After returning of remaining co-accused, Jivan @ Suny Sunil Pratap accompanied them upto Relax Hotel and then they dispersed. As such it cannot be said that statement Jivan @ Suny Sunil Pratap made to Superintendent of Police Sangli, cannot be termed as confessional statement. Considering the evidence collected by the prosecution, it cannot be said that prima facie offences under MCOC Act are not attracted so far as present applicant is concerned. As such, no case for bail is made out. Application is rejected.

[A. M. BADAR, J.]