

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

CRI. BAIL APPLICATION NO. 2091 OF 2015

Vijay Dattatraya Koli

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Ms. Shruti Kandoi, Advocate, h/for Umesh R. Mankapure,
Advocate for the Applicant.

Ms. Veera Shinde, A.P.P. for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 06th JUNE, 2016

P.C. :

1 By this application filed under section 439 of the Criminal Procedure Code, the applicant/accused no.3 in Crime No. 38 of 2012 registered with Vishrambag Police Station, Dist. Sangli for the offences punishable under sections 394, 452, 347, 504 read with section 34 of the Indian Penal Code, is seeking bail.

2 Heard learned counsel appearing for the Applicant /Accused. By taking me through the entire chargesheet, the learned counsel vehemently argued that evidence of the prosecution is sketchy and there is discrepancy regarding identification of the accused vis-a-vis the description given in the FIR. She also argued that the applicant/accused is behind bar since long and he cannot be required to undergo pre-trial

detention, as conclusion of the trial will take time. Hence, according to the learned counsel, the applicant is entitled to be released on bail during pendency of the trial.

3 As against this, the learned APP argued that the offence committed by the present applicant and co-accused is serious and considering the nature of the offence and the manner in which it was committed, the present applicant cannot be released on bail.

4 Perused the entire chargesheet. It is seen from the chargesheet that the incident in question is alleged to have been happened on 13.03.2012 at about 10.30 p.m.. Informant - Shashiram B. Mulik is having a jewelery shop in his house which is situated near Mali Vasti, Basaweshwar Housing Society, Suyog Bungalow, Sangli. According to the prosecution case at about 10.30 p.m. on 13.03.2012, four unidentified persons knocked the door by giving call in the name of the son of informant. When the door was opened by the informant, they barged inside the house armed with scythe and threatened the inmates of the house including the informant. According to the prosecution case, the informant and his family members were robbed of gold, silver ornaments and other articles and cash worth of Rs. 39,68,000/-. Hands and legs of the inmates of the house were tied and after committing robbery, the accused persons left the house.

5 As can be seen from the charge-sheet, informant-Shashiram Mulik, his son Sachin as well as wife Sharda had identified the present applicant as well as other accused persons in the identification parade. On the basis of the voluntarily disclosure statement of the present applicant/accused as well other co-accused, property worth Rs. 33,53,742/- comprising of gold and silver ornaments and other articles came to be recovered. Weapon used in the offence is also came to be recovered from the present applicant as well from other co-accused. It is thus seen that the involvement of the present applicant in the crime in question is prima facie established.

6 Considering the serious nature of the offence and the manner in which it was committed, it cannot be said that if released on bail, the applicant/accused will be available for trial. Considering the seriousness/gravity of the offence committed there is a doubt about availability of the applicant/accused at the time of trial and as possibility of tampering with prosecution evidence cannot be ruled out, the applicant cannot be released on bail during pendency of the trial.

7 In the result, the bail application stands rejected.

(A. M. BADAR, J.)