

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

17 CRIMINAL APPLICATION NO. 1138 OF 2017

SANTOSH S/O SUKHDEV WAIKAR
VERSUS
THE STATE OF MAHARASHTRA AN

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Advocate for Applicant : Mr. V.P. Narwade
APP for Respondent : Mr. S.J. Salgare
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CORAM : T.V. NALWADE, J.
DATED : 15th March, 2017.

ORDER :

1. The application is filed for bail. Both the sides are heard.

2. The chargesheet is filed against the applicant for the offences punishable under sections 395, 120-B etc. of the Indian Penal Code and section 4 r/w. 25 of the Arms Act. The incident in question took place on the night between 17.10.2015 and 18.10.2015. Allegations are made that present applicant along with his associates broke open the house of complainant, they created terror by using weapons like wooden logs and they committed offence of dacoity. They had tied clothes on their faces to hide their identity. Cover of cloth on the face of the present applicant became loose and due to that the complainant could see the present applicant. The complainant knew the

present applicant. The F.I.R. was given immediately on 18.10.2015 and in the F.I.R., the name of the present applicant was given as one of the accused by the complainant.

3. The papers of investigation show that two gold rings came to be recovered under section 27 of the Evidence Act at the instance of present applicant. The learned APP today produced on record the report of police showing that as many as 22 crimes were registered against the present applicants from the year 2007 which were similar. In the year 2015, this was the third offence. The learned APP submitted that in other case, the provisions of Maharashtra Control of Organised Crime (MCOC) Act are used against the applicant. It can be said that after getting released on bail, every time the applicant committed similar offence. Such accused is menace to the society and he cannot be kept outside.

4. The learned counsel for applicant submitted that to accused No. 2 - Kamlesh Pimpale bail is granted by the Sessions Court when some stolen property was recovered at his instance under section 27 of the Evidence Act. He submitted that on the ground of parity, the present applicant is entitled to bail. This submission is not at all acceptable. Firstly, in the F.I.R., name of

the present applicant was given by the complainant and complainant knew the present applicant, but the applicant has such courage to commit the aforesaid offence in the houses of the persons who are known to him. Further, as many as 22 cases are filed against the present applicant, but he is not improving. There is possibility of commission of similar offence and there is also possibility of absconding, if he is released on bail. In view of these circumstances, this Court holds that it is not a fit case to grant the bail. In the result, the applicant stands rejected.

[T.V. NALAWADE, J.]

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