

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.417 OF 2017

Laxman @ Lucky Sudhakar Govardhan	Applicant
versus	
State of Maharashtra	Respondent

Mr.Mahesh Vaswani, Miss Manashi Mahanta and Ms.Dharini Nagada
for Applicant.

Mr.R.M.Pethe, APP, for State.

Mr.V.H.Dalvi, API, Crime Branch, Wagle Unit-5, Thane City, present.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 24th July 2017

PC :

1. This is an application for bail in connection with CR No.I-173 of 2016 registered with Wagle Estate Police Station, Thane. The offences were registered under Sections 395, 397, 342, 506(2), 20(b) and 201 of Indian Penal Code read with Sections 3, 25 and 27 of Indian Arms Act.

2. The prosecution case is that on 28th June 2016 in the office of Checkmate Services Private Limited, a dacoity was committed for an amount of Rs.5 crores. First information report ('FIR') was lodged by the employee of the said company. It is alleged that the Applicant is one of the person amongst other persons who were involved in commission of said offence. The Applicant was arrested on 16th July 2016. The investigation is complete and charge sheet has been filed on 22nd September 2016.

3. Learned advocate for the Applicant submitted that the Applicant is in custody since 6th July 2016. The investigation is complete and charge sheet has been filed. It is submitted that further detention of the Applicant is not necessary. It is further submitted that the prosecution case is that the accused were wearing monkey cap and therefore identity of the Applicant-accused could not have been established. The identification parade is, therefore, concocted by the investigating agency. It is further submitted that the alleged recovery at the instance of Applicant was shown wherein an amount of Rs.6.55 lakh was allegedly shown to have been given by Applicant to the uncle of the co-accused. It is submitted that it is difficult to believe that an amount was handed over by the Applicant to the relative of the co-accused. It is further submitted that assuming that the prosecution case is to be true, the Applicant is in custody for a long period of time and his further custody is not required. Learned counsel for Applicant relied upon decisions of Supreme Court and this Court in support of his submissions. Reliance is placed on the decisions in the cases of Bhagirathsinh s/o Mahipat Singh Judeja Vs. State of Gujarat reported in (1984)1-SCC-284 and Sanjay Chandra Vs. CBI reported in (2012)1-SCC-40. Reliance is also placed on the decision of this Court in case of Amit Anand Pai Raikar Vs. The State of Goa and others reported in 2016(2)-Bom.CR (Cri)-186. It is submitted that in all the aforesaid decisions, guidelines were laid down by the Courts for grant of bail. It is submitted that in Bhagirathsinh Judeja's case (supra), it is observed that even where prima facie case is established, the approach of the Court in the matter of bail is not that the accused should be detained by way of punishment but whether the presence

of the accused would be readily available for trial or that he is likely to abuse the discretion granted in his favour by tempering the evidence. Learned counsel also placed reliance upon observations made by the Apex Court in the case of Sanjay Chandra (supra) as well as this Court in case of Amit Raikar (supra). It is submitted that the Applicant is not having any criminal antecedent and considering the fact that he is languishing in jail for a long period of time, bail may be granted.

4. Learned APP submitted that the Applicant's involvement is established on the basis of evidence collected by the investigating agency. It is submitted that the Applicant has been identified by eight persons. It is further submitted that supplementary statement of the complainant was recorded in which he had stated that the accused had removed their monkey caps for some time and, therefore, the accused could be identified. It is further pointed out that the statements of witnesses were recorded under Section 164 of Code of Criminal Procedure, 1973. There is recovery of Rs.6.50 lakh at the instance of Applicant. It is submitted that the arguments advanced by the advocate for the Applicant that recovery and identification parade is doubtful, cannot be accepted at this stage. It is further submitted that the application preferred by the co-accused namely Nitesh Awhad bearing Bail Application No.867 of 2017, has been rejected by this Court by order dated 3rd July 2017. The said accused was also identified by the witnesses and there was a recovery of Rs.43.50 lakh at the instance of said Applicant. It is also submitted that there is evidence of CDR records, which indicates the involvement of the accused in commission of crime.

5. I have considered the submissions advanced by both the sides. Perused the charge sheet. It is apparent that the Applicant has been identified by eight witnesses and there is recovery of Rs.6.50 lakh at the instance of Applicant. It is noted that the accused were involved in committing the dacoity of Rs.5 crores. It is also noted that the statement of the complainant and other witnesses show the involvement of the Applicant. There is also evidence of CDR which shows the complicity of the Applicant in the said crime. I have also considered the observations of the Supreme Court from the decisions cited by learned advocate for Applicant. In the present case, there is overwhelming evidence available against the Applicant in the dacoity of Rs.5 crores. There is evidence of identification. The application preferred by the co-accused is already rejected by this Court. The nature of crime committed by Applicant does not warrant use of discretion for grant of bail.

6. In the circumstances, I am not inclined to grant bail to the Applicant. Hence, I pass following order :

ORDER

(i) Bail Application No.417 of 2017 is rejected.

(PRAKASH D. NAIK, J.)