

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 651 OF 2016

Tariq Rehmatulla Khan	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Vinod Kashid, Advocate for the applicant.
Ms. J.S.Lohakare, APP, for the State.
Mr. S.D.Dalvi, PI, Kandivali police Station present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 6th January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 18.1.2015 in Crime No.9 of 2015 registered at the instance of the D.C.B. CID Unit-VIII, Mumbai. The investigation is completed and charge sheet is filed. The case is committed to the Court of Sessions and is registered as Sessions Case No.388 of 2015.

2. It is the case of the prosecution that on 16.1.2015, Raju Mahajan working as Branch Manager of Security Trans India Ltd. lodged a report at the police station that on that day, Ganesh Patil had informed him that he has received a phone call from Sharavan Yadav thereby giving

intimation that the vehicle (van) which was carrying cash from HDFC Bank Ltd. for depositing the same in ATM was looted. The present applicant happened to be the driver of the said vehicle. It appears that Sharavan Yadav was informed by the present applicant that Guard i.e. Sadre Alam Shaurat Ali Khan administered some spurious substance to the driver, Bashar Ali Khan and Dharmesh Pedamkar and others and when they were proceeding on Western Express Highway, he felt dizzy. The van was accosted by a white Maruti Zen Car. Four persons had alighted from the said car and they had looted the said cash van and had taken away cash with them. Soon thereafter the police was summoned to the spot. Police had noticed that out of Rs.2,13,00,000/- Rs.1,95,00,000/- were looted and Rs.18,00,000/- were found in the van itself.

3. The compilation of charge sheet would show that an amount of Rs.55 lakhs was recovered from the house of the present applicant. This is an incriminating material as against the applicant. There is no plausible explanation as to how he was in custody of Rs.55 lakhs soon after the incident.

4. The learned counsel for the applicant vehemently submits that

in fact the present applicant was the one who had informed Shri Shravan Yadav about the fact of looting and that soon after the incident he was taken to the hospital and was discharged on the next day and on his discharge he was taken into custody and therefore he has no knowledge as to how the amount of Rs.55 lakhs was found in the house. According to the learned counsel, in all probabilities, the amount was recovered at the instance of other accused persons was shown to be recovered from the person of the applicant. The said submission holds no good ground as on today.

5. Upon perusal of the statements of the witnesses, it is apparent that a plot was hatched by Sadre Alam Shaurat Ali Khan and the present applicant and therefore the amount that was to be received as his share was deposited in the house soon thereafter. The statement of Pedamkar would also indicate the mode of action adopted by the present applicant and Sadre Alam Shaurat Ali Khan. In these circumstances, the applicant does not deserve to be enlarged on bail. In any case, the trial has commenced and therefore it would not be appropriate to consider the application under Section 439 of Cr.P.C.

6. The application being sans merits, stands rejected.

7. The learned Sessions Judge shall not be influenced by the

observations made hereinabove at the time of trial. The learned Sessions Judge shall make an endeavour to conclude the recording of evidence, as far as possible, within one year from today.

(SMT. SADHANA S.JADHAV, J.)