

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

BAIL APPLICATION NO. 1328 OF 2017

Pankaj Jamveer Singh	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

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Mr.Diwakar Singh, Advocate for the Applicant.
Mr.R.M. Pethe, APP for the Respondent – State.
PSO Sudheer Jambvadekar, Railway Police Station, Mumbai.

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CORAM : PRAKASH D. NAIK, J.

DATED : JULY 25, 2017.

P.C. :

This is an application for bail. The applicant is impleaded as accused in the M.C.O.C. case. The applicant was initially arrested on 25th October, 2015 in connection with C.R. No.I-55 of 2015, registered with Panvel Railway Police Station for the offences punishable under Sections 395, 397 and 120-B of IPC read with 3, 25 (c) of the Arms Act. FIR was registered on 4th August, 2015.

2 The applicant was directed to be released on bail by the Sessions Court vide order dated 17th November, 2015.

Subsequently, the provisions of M.C.O.C. Act were invoked and an application was preferred seeking cancellation of the bail of the applicant. The said application was allowed by order dated 11th August, 2016. Thereafter, the applicant preferred an application for bail before the Sessions Court which has been rejected on 22nd March, 2017.

3 The prosecution case is that on 3rd August, 2015 complainant was travelling by Konkan Kanya Express from Madgaon to Mumbai. He was accompanied by another person. The complainant is the gold smith. He was carrying two bags containing gold worth Rs.71,56,000/-. While they were travelling at about 4:20 a.m. on 4th August, 2015, the accused persons entered into the train compartment. They snatched the bags and started breaking chain of bags of the complainant. Hence, the complainant started shouting. One out of them showed pistol and another person was carrying knife. The complainant was threatened and assaulted and robbed of the gold belonging to him. Hence, FIR was registered for the offences punishable under Sections 395, 397 and 120-B of IPC as well as Sections 3 and 25 of the Arms Act.

4 The applicant was granted bail by the Sessions Court by order dated 17th November, 2015. While granting bail, it was also observed by the JMFC Kalyan that the golden ingot was recovered from the accused no.5, the pistol, mobile and other articles were recovered from accused no.3. Nothing has been recovered from the present applicant - accused. There are no documents to show that the applicant played a role in the alleged conspiracy and there is no identification parade conducted. There is no evidence to show the involvement of the present applicant. On the basis of the said observations, bail was granted to the applicant. On applying the provisions of M.C.O.C. Act, the application for cancellation of bail was preferred as stated hereinabove. The bail granted to the applicant therefore was cancelled by the Special Judge M.C.O.C. Act vide order dated 18th August, 2016. While cancelling the bail, it was observed that the bail was granted to the applicant earlier was prior to invocation of M.C.O.C. Act hence, on the basis of the application of M.C.O.C. Act, the bail was cancelled by the Special Judge (M.C.O.C. Act), Thane.

5 Learned advocate for the applicant submitted that there is no evidence to connect the applicant with the said crime.

He was granted bail by the Court of J.M.F.C., Railway Court by observing that there is no evidence to connect the applicant in the said crime. It is further submitted that there is no other evidence to show the participation of the applicant in the said crime. There are no criminal antecedents against the applicant. He is not involved in any crime along with the main accused. There is no recovery of any cell phone at the instance of the applicant. It is, therefore, submitted that bail may be granted to the applicant.

6 Learned APP submitted that the applicant was seen at Madgaon Railway Station in the C.C.T.V. footage and his presence is recorded in the C.C.T.V. camera installed at the ATM at Madgaon station. It is stated that there is continuous call by the main accused and some other person. It is further submitted that cell phone which stands in the name of the father of the applicant bearing No.7404153953 as well as cell phone belonging to the accused Navin Malik found switched off from 1st August, 2015 till 9th August, 2015. First location of the said cell phone was Mumbai and then it was located at Rohta. It is, therefore, submitted that there is link between the applicant and the co-accused. It is also submitted that the co-accused Navin Malik was

seen at Madgaon railway station at the ATM Center where the applicant was seen. It is, therefore, submitted that on the basis of the aforesaid material the bail should not be granted to the applicant.

7 Perused the documents on record. Except stating that the applicant was seen at Madgaon railway station, there is no cogent and strong evidence to connect the applicant to the said crime. There is no evidence to show that the applicant was amongst the accused who committed robbery in the train by assaulting the complainant and his associates. Merely on the basis of the cell phone which stands in the name of the father of the applicant the applicant cannot be detained further in custody. He was granted bail by the Court with an observation that there is no evidence to connect him with the crime. There are no criminal antecedents against the applicant. In the circumstances, the application deserves to be allowed.

8 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1328 of 2017 is allowed;

- (ii) The applicant is directed to be released on bail in connection with C.R. No.I-55 of 2015, registered with Panvel Railway Police Station, on furnishing P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand) with one or more local sureties in the like amount;
- (iii) The applicant is directed to report Local Crime Branch, Mumbai once in two months on first Saturday between 11:00 a.m. to 1:00 p.m. till the conclusion of the trial;
- (iv) The applicant is directed to attend the trial Court proceedings on the date of hearing;
- (v) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)