

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1392 OF 2016

Sanjay @ Rohit @ Rohidas Aklu Mandal ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Mr. Nitin Sejpai, Advocate for the applicant.

Mrs. P.P.Shinde, APP, for the State.

Mr. V.A.Deshmukh, PSI, Kasa Police Station, Palghar present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 14th February, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 30.4.2015 in Crime No.159 of 2014 registered at Kasa Police Station for the offences punishable under Sections 395, 397, 307, 383, 332, 333, 336 of the Indian Penal Code, Section 3 read with Section 25 of the Indian Arms Act, Section 4 read with Section 25 of the Indian Arms Act and the provisions under Sections 3(2) and 3(4) of MCOCA.

2. It is the case of the prosecution that on 5.12.2014, API Ravi Magar lodged a report at the police station that the police had received reliable information that buses, trucks and other vehicles passing on Mumbai-Ahmedabad Highway No.8 were being looted by an organisation. That

they had reached Mumbai-Ahmedabad Highway. It was noticed that at about 3.20 a.m. Luxury Bus was passing through the said Highway, a vehicle had stopped on the road for changing the stepni of their jeep. The police had seen five persons on the spot. That they were able to apprehend 3 of them. That they had asked the lady constable to speak to these persons in Gujarati.

3. It is the case of the prosecution that the luxury bus was looted by the accused Gangaram. The police had made every attempt to accost the accused at the relevant time and at that time they were assaulted and were obstructed from discharging their official duties. It is alleged that they were carrying weapons like swords, sticks, stones and chilli powder. The first informant has specifically alleged that besides the persons named in the FIR, there were other unknown persons. It was revealed in the papers of investigation that the organization is being led by Gangaram @ Gangya Bhadrage and that the applicant happens to be a member of said organisation. In the course of investigation, test identification parade was conducted and, according to the investigating agency, the applicant has been identified at the test identification parade.

4. The learned counsel for the applicant vehemently submits that the applicant has not been named in the first information report. That the

material collected in the course of investigation in the form of test identification parade is only a corroborative piece of evidence and it cannot be relied upon. It is also submitted that even after the test identification parade, no specific role has been attributed to the present applicant and, therefore, he deserves to be enlarged on bail.

5. Upon perusal of the affidavit filed by the State, it is clear that the applicant has criminal antecedents and inasmuch as nine cases are registered against the applicant at various police stations under Sections 399, 402, 395, 397, 341 of the Indian Penal Code. The learned counsel for the applicant submits that the applicant has been enlarged on bail in all these cases.

6. It is a matter of record that while on bail in the pending cases, the applicant has been shown to have been involved in the present case and in view of this, it would be difficult to record a finding under Section 21 sub-clause (4) of MCOCA and record a finding that in the eventuality of being enlarged on bail, the applicant would not indulge into similar offence.

7. In view of this, the application deserves to be rejected. The application stands rejected and stands disposed of.

(SMT. SADHANA S.JADHAV, J.)