

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1636 OF 2017

SUBAN SAJID SAYYED

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.B.K.Manghani, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 13th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.268 of 2016 registered with Police Station Juhu, Mumbai, for offences punishable under Sections 452, 342, 392, 506(ii), 120B, 34, 395, 397, 450 of the Indian Penal Code and under Section 37 read with Section 135 of the Maharashtra Police Act, as well as under Sections 3 and 25 of the Indian Arms Act, by this application, is seeking his release on bail.

2 The learned advocate for the applicant/accused argued that the applicant/accused is the neighbour of the First Informant and co-accused named Sushil Hinge, having similar role has already been released on bail by this court vide order dated 24th August 2017 in Criminal Bail Application No.468 of 2017 (Coram : Revati Mohite Dere, J.). Hence, on principle of parity, in submission of the learned advocate for the applicant/accused, the applicant/accused in the matter deserves to be released on bail.

3 The First Information Report (FIR) in the incident in question came to be lodged on 25th April 2016 by Viju Manikam Swami alias Tambi. He alleged that on that day, four unknown persons barged inside his house and some of them were armed with revolvers. On the point of revolver, they looted four gold chains, cash amounting to Rs.1 lakh and cell phone totalling to Rs.4.35 lakh from his house.

4 Evidence against the present applicant/accused is that of recovery of one gold chain weighing 80 gms. costing Rs.1.76 lakh as well as recovery of a cell phone.

5 Perusal of the charge-sheet shows that since beginning and prior to the incident in question, mother of the present applicant/accused was lodging reports against the First Informant alleging that though the loan advanced by him to her is fully repaid, he is threatening her as well as her son with dire consequences. It is seen that mother of the present applicant/accused had initially lodged a report against the present First Informant on 4th December 2014 which was considered as report of non-cognizable case. Then, she lodged another report dated 5th December 2014. On 4th May 2016 also mother of the present applicant/accused had lodged report against the First Informant making serious allegations against the First Informant. She also averred non-cooperation by police.

6 The investigation of the crime in question is over. The co-accused with similar role is already released on bail by this court. There is, prima facie, evidence of past enmity between the First Informant and the present applicant/accused and his family members. In this view of the matter, the applicant deserves liberty. As such, the order :

ORDER

- i) The application is allowed.
- ii) The applicant/accused in Crime No.268 of 2016 registered with Police Station Juhu, Mumbai, for offences punishable under Sections 452, 342, 392, 506(ii), 120B, 34, 395, 397, 450 of the Indian Penal Code and under Section 37 read with Section 135 of the Maharashtra Police Act, as well as under Sections 3 and 25 of the Indian Arms Act, is ordered to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.
- iii) The applicant / accused shall attend the concerned Police Station on the first Saturday of every month, between 10.00 a.m. and 11.00 a.m., till framing of the Charge.
- iv) The applicant/accused shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- v) The applicant/accused shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the

court seized of the matter and to the Investigating Officer of the concerned police station.

vi) The applicant/accused to co-operate with the conduct of the trial and shall attend the trial on every date of hearing.

vii) The application is accordingly disposed of.

7 It is made clear that the observations made herein are prima facie and the trial court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8 Parties to act on the authenticated copy of this order.

(A. M. BADAR, J.)