

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1505 OF 2016

Shri Paresh @ Paria Ramesh Goswami ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Ms. Anjali Patil, Advocate for the applicant.

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

Mr. Pradeep P.Raorane, API, Charkop Police Station present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 23rd January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 13.6.2015 in Crime No.203 of 2015 registered at Charkop Police Station on 2.6.2015 for the offences punishable under Sections 392, 451, 170, 342 read with Section 34 of the Indian Penal Code. The investigation is completed and charge sheet is filed against the present applicant on 4.9.2015.

2. It is the case of the prosecution that on 2.6.2015, Jayantibhai Sarvaiya lodged a report at the police station alleging therein that he was acquainted with one Ramjibhai, who was engaged in the business of construction. That Ramjibhai had helped him in times of need. That Ramjibhai had given Rs.10 lakhs to the complainant and had also made

certain arrangements for him as he was to travel to some other places. According to the complainant, on 2.2.2015 at about 7.30 a.m., his wife had informed him that officers of the Income-tax Department had come to their house. They had shown their identity cards. They have threatened to see the files. They had asked for the keys of the cupboard. They had taken cash and ornament from the cupboard. They had also taken away cellphone of the members of the family and then had locked them and had left on the motorcycle. The complainant had given the description of the 3 persons who had visited their house.

3. It is the case of the prosecution that the applicant was working with the complainant and had knowledge that there was huge cash and golden ornaments with them and had given the chit to the accused persons who had posed as Income tax officers and had stolen the cash and ornaments from the house of the complainant.

4. The learned counsel for the applicant submits that there is no material on record to indicate that the applicant has given the said information to the real culprits. The learned counsel for the applicant submits that in fact the complainant has not given the description of the

ornaments which were stolen. It is also submitted that in fact, the complainant wanted to usurp the money given by Ramjibhai and therefore a false story is fabricated.

5. The learned APP submits that there is recovery of Rs.1,70,000/- from the applicant and that he was not told to account for it and in all probabilities, it is a share received by him in the said incident. As against this, the learned counsel for the applicant submits that in fact the applicant owns a car which is used as a taxi and that he can account for the amount which is shown to be recovered under Section 27 of the Indian Evidence Act.

6. The learned APP submits that there are no criminal antecedents. Upon consideration of the compilation of charge-sheet, and the material collected in the course of investigation, the applicant deserves to be enlarged on bail.

7. The observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration at the time of quashing of FIR, discharge application or at the time of trial.

8. The co-accused shall not claim parity with the present applicant as well as positive evidence on record to indicate that they posed as officers of Income-tax Department and had committed theft.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on every Sunday between 10 a.m. to 1 p.m. for the next six months.

Application is allowed in the above terms and stands disposed of.

(SMT. SADHANA S.JADHAV, J.)