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

CRIMINAL BAIL APPLICATION NO.1875 OF 2016

Mahesh Rajaram Ahiwale

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms.Sushma Nair, for the Applicant.

Mr.S.H.Yadav, A.P.P. for the Respondent-State.

Mr.A.B.Nimbalkar, Vita Police Station.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th APRIL, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.78 of 2013 registered with the Atpadi Police Station, Sangli, for the alleged offences punishable under Sections 397 r/w 34 of the Indian Penal Code, under Section 3(25) of the Arms Act and under Sections 3(i)(ii), 3(2) and 3(4) of Maharashtra Control of Organized Crime Act.
3. Learned Counsel for the applicant submitted that no offences

as alleged are disclosed as against the applicant. She submitted that the incident in question has taken place on 18th December, 2013 at about 7.30 p.m. and the complainant is alleged to have seen the accused, as the headlights of the car were on. She submitted that there is nothing to show in the spot panchanama, that the headlights of the car were on. She submitted that there is recovery of Rs.25,000/- at the instance of the applicant and that by itself is not sufficient to show the complicity of the applicant. She further submitted that the applicant had no antecedents, when the charge-sheet was filed against him.

4. Learned APP opposed the application. He submitted that similar cases were registered as against the applicant and that the applicant was transferred in these cases, after his arrest in the present C.R.

5. Perused the papers. The incident in question has taken place on 18th December, 2013. According to the complainant, - Biroba Babaso Tale, who is running a jewelery shop, after closing his shop when he was proceeding home, the alleged incident took place. He has stated that when he was travelling in his Indigo Car, some unknown persons followed him

and broke the glass of his car and robbed gold and silver ornaments, mobile and cash worth Rs.7,28,000/-. He has stated that in the said incident, he was also assaulted. Accordingly, the aforesaid complaint was lodged as against unknown persons.

6. The applicant was arrested on 30th December, 2013 in the aforesaid C.R. In the identification parade, which was held on 17th January, 2014, the complainant has identified the applicant being one of the accused. Although, no specific role has been assigned to him, the fact remains that the applicant has been identified in the identification parade. There is recovery of Rs.25,000/- at the instance of the accused. It appears that there is recovery of certain gold and silver ornaments alongwith live cartridges from some of the other accused. Whether or not an offence under MCOC Act is made out or not is a matter which will be decided by the trial Court at an appropriate stage. Prima-facie, considering the material on record, this is not a fit case to enlarge the applicant on bail.

7. Accordingly, the Application for bail is rejected and disposed of as such. However, since the case is of the year 2013, the trial of the

applicant is expedited. The learned Judge shall make an endeavour to dispose of the case, as expeditiously as possible and preferably within 12 months from the date of receipt of this order.

8. If, for no fault of the applicant, the trial does not conclude within the stipulated period, the applicant is at liberty to renew his prayer for bail.

9. The prosecution to take effective steps to ensure that all the accused in the said case are produced on all the dates given by the trial Court, so as to enable the trial Court to proceed with the case.

10. It is made clear that the observations made herein are prima facie for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)