

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2208 OF 2017

MAYUR RAJENDRA KADAM ALIAS AJINKYA)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Nitin Sejpal i/b. Mr.Sandeep Kumar Singh, Advocate for the Applicant.

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

CORAM : A. M. BADAR, J.

DATE : 7th NOVEMBER 2017

P.C. :

1 The applicant / accused in Crime No.I-173 of 2016 for offences punishable under Sections 395, 397, 342, 506(ii), 120B, 201 read with 34 of the Indian Penal Code (IPC) as well as under Sections 3, 25 and 27 of the Indian Arms Act and under Sections 37 and 135 of the Maharashtra Police Act, by this application, is seeking his release on bail during pendency of his trial.

2 Heard the learned advocate appearing for the applicant / accused no.5. He drew my attention to the First Information Report (FIR) and submitted that the applicant / accused no.5 had not participated in the actual commission of the dacoity and therefore, he was not subjected to the Test Identification Parade (TIP) by the prosecution. It is further argued that that evidence against the present applicant / accused is comprising of recovery effected from him on 30th June 2016 as well as seizure of amount of Rs.4.50 Lakh from the developer. With this, it is argued that the applicant / accused can, at the most, be liable for the offence punishable under Section 412 of the IPC, and other penal provisions are not attracted against him. It is the defence of the of the applicant / accused that he was threatened by the co-accused.

3 The learned APP opposed the application by contending that statement of one Aadesh Gorivale shows complicity of the present applicant / accused in the crime in question, apart from the evidence regarding recovery recovery of an amount of Rs.43,79,920/- from him.

4 I have carefully considered the rival submissions and also perused the charge-sheet.

5 The crime in question is registered on the basis of report lodged by Sunil Ganesh Rathod – an employee of Checkmate Services Private Limited. The said Company was doing the work of receiving cash from traders and mall owners from Thane and Mumbai and then depositing the same with the bank. The incident in question allegedly took place in the night intervening 27th June 2016 and 28th June 2016. According to the prosecution case, the First Informant and other employees of Checkmate Services Private Limited were sorting out the cash received by the Company for depositing with the bank. At about 3.15 a.m. of 28th June 2016, two persons armed with revolvers entered in the Company and threatened the employees. Then, the dacoits collected the cash in a plastic drum. The employees were threatened by an utterance that one of them will have to be killed. The First Informant reported that then the cash put in the plastic

drum was taken outside the Company premises. The First Informant further reported that in all seven dacoits were found to be involved in the dacoity. The First Informant further reported that approximately 4 to 5 Crore rupees were robbed from the Company by the dacoits, apart from taking with them C.C.T.V. cameras and DVR machines.

6 Evidence against the present applicant / accused comprises of recovery of cash effected from him. He came to be arrested on 30th June 2016 by stopping the car of Eco model on the basis of information given by the co-accused. An amount of Rs.17,37,420/- came to be recovered from him apart from a chopper. On the very same day, on the basis of confessional statement of the applicant / accused, an amount of Rs.21,92,500/- apart from two cell phones and a laptop came to be recovered from his house. An amount of Rs.4.50 Lakh came to be recovered from the builder from whom he had booked an apartment in the name of his mother on 4th July 2016.

7 So far as complicity of the present applicant / accused in the crime in question is concerned, statement of witness Aadesh Gorivale is clear. This witness had heard the conspiracy of accused persons including the present applicant / accused in raiding Checkmate Services Private Limited for looting the cash on earlier occasion. This witness has stated that at about midnight of 28th June 2016, the applicant / accused threatened him and took his Eco car. The said car was not returned by the present applicant / accused and ultimately, it was found to be seized by the police on 30th June 2016 by arresting the present applicant / accused in the crime in question. Statement of Aadesh Gorivale, prima facie, does not allow me to hold that provisions of only Section 412 of the IPC are attracted against the present applicant / accused and that he was not a member of the team which indulged in dacoity at the Company.

8 Nature of crime, degree of criminality and the manner in which the crime in question is committed are relevant factors for deciding whether to enlarge an accused on bail or not. In the

case in hand, daring dacoity took place in which amount of about Rs.11 Crore is looted by the accused persons in the night hours by raiding Checkmate Services Private Limited – a Company dealing with cash collected from traders. The complicity of the applicant / accused is prima facie established in the crime in question. Therefore the order :

ORDER

The application is rejected.

(A. M. BADAR, J.)