

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 317 OF 2018

Dipak Ramraj Garg. .. Applicant.

V/s.

State of Maharashtra. .. Respondent.

Mr. Kalpesh U. Patil, advocate for applicant.

Mr. S.R. Agarkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JUNE 27, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1908. The applicant herein is arrested on 12/8/2017 in Crime No. 341 of 2017 registered at Karad Taluka Police Station for offence punishable under section 395, 397, 120(B) of the Indian Penal Code and under section 3 and 25 of the Indian Arms Act. Investigation is complete and charge-sheet is filed.

3 It is the case of the prosecution that Dipak Gundopant Joshi lodged a report at Karad Taluka Police station on 12/8/2017 alleging

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therein that his brother happens to be owner of Dattakrupa Petrol Pump. The first informant is working as assistant teacher and therefore, in order to give a helping hand to his brother used to attend the petrol pump for night duty. That on 11/8/2017 at about 9 p.m. he was at the petrol pump. They had collected cash of Rs. 22,315/-, which was in his pocket. That after 9 p.m. one Bullet vehicle bearing No. MH 50 BT 612 had stopped at the petrol pump. It was followed by another motor cycle bearing No. MH 11 AK 8055. That he has seen the colour of the clothes worn by the said driver since they have stopped at the petrol pump. One of them shot pistol at the first informant. However, it was missed and crashed against tin shutter of the petrol pump. Thereafter, first informant and his friend were looted by the said person, assaulted and thereafter, they had left the spot.

4 It is pertinent to note that the applicant herein was arrested on the same day. The accused were also arrested. The applicant happens to be a native of State of Haryana.

5 The learned Counsel for the applicant submits that the applicant has been in custody for almost 10 months. The case is not yet committed to the Court of Sessions. That there is no recovery from the applicant under section 27 of the Indian Evidence Act. According to the learned APP, as on today, he has been identified by the first informant at

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the test identification parade and that it is corroborative evidence and need not be considered while deciding the bail application.

6 Perused the papers of investigation. It appears from the order passed by the Sessions Court that the accused applicant has been arrested for similar offence in another petrol pump at Kadegaon at Karad, Vita Road.

7 The learned Counsel for the applicant submits that the applicant has no criminal antecedents and he has been arrested on suspicion. The learned APP vehemently submits that in fact, the applicant is native of Haryana. He would not be available for trial. It is also submitted that the applicant is in the company of hardened criminals.

8 This Court cannot be oblivious of the fact that the liberty of an individual shall not prevail over the safety and security of the society at large. Hence, in view of the nature of offence and the fact that the applicant has been identified at the test identification parade, the applicant does not deserve to be enlarged on bail. Upon committal of the case, the applicant would be at liberty to file application before Sessions Court to expedite the trial.

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9 The application being sans merits stands rejected and disposed of accordingly.

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[SMT. SADHANA S. JADHAV, J.]

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