

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

CRIMINAL BAIL APPLICATION NO. 1110 OF 2018

Deeparam Jagaram Mali	... Applicant
Vs.	
State of Maharashtra	... Respondent

...

Mr. Aniket Vagal for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.
DATE : 1st NOVEMBER, 2018.

P.C.

1. This is an application for bail in connection with C.R. No. 330 of 2016 registered with Azad Maidan Police Station for offence punishable under Sections 395, 397, 342, 452, 412, 120(B) read with Sections 3, 25 of Arms Act and Section 7(1)(A) read with 135 of Maharashtra Police Act.
2. The case of the prosecution is that first informant was dealing in stock market. His office is situated at Dhobi Talav. Transaction of cash used to take place at his office. On the date of incident on 4th October, 2016 four unknown person armed with pistol and knife entered into the office of the first informant. They forcibly took cash of Rs.75,00,000/- and four mobile phones worth Rs.39,700/- and ran away from the scene of offence. FIR was

registered on 4th October, 2016.

3. Applicant was arrested on 16th October, 2016. Investigation is completed and chargesheet has been filed. Learned counsel for the applicant submitted that applicant has been falsely implicated in this case. Applicant has not been identified in the parade. Co-accused has been granted bail by this Court. Applicant is entitled for bail on the ground of parity.

4. Learned APP submitted that there is sufficient evidence to show the complicity of the applicant in the crime. There is recovery of Rs.4,36,000/- from the applicant. The CDR shows that the applicant was in the vicinity of crime at the time of incident which is apparent from tower location. The applicant is the person who was seen in the CCTV footage with bag containing cash amount. The applicant has committed serious offence. Complainant is put to huge loss. The applicant was involved in commission of offence of robbery.

5. I have perused the material on record. It is pertinent to note that applicant has not been identified in the identification parade. There is no evidence to link him with the recovered amount and amount looted. Co-accused were granted bail by this Court. I have perused the order granting bail by this Court in Bail

Application No. 215 of 2018 to co accused Rajput. It was further observed that prosecuting agency has not established the link between the cash deposited by the said accused and the cash allegedly looted by the applicant in the said crime and the same will have to be established at the time of trial. It was further observed that there was no identity marks on the currency note which was recovered from the said accused. Call detail record of the mobile phone showing the presence of accused at the scene of offence, at this stage, cannot be termed as a conclusive proof of the applicant and the prosecution will have to prove the said fact at the time of trial. C.C.T.V. footage is the only circumstance against the said accused at this stage. On the basis of said observations, accused Modsingh Vagatsingh Rajput was granted bail by this Court. Co-accused Shravan Kumar Ranjeet @ Rankeshwar Raval is also granted bail vide Bail Application No. 364 of 2018 by order dated 1st October, 2018. Said accused was identified in the identification parade and there was recovery of cash amount of Rs.11,50,000/- at his instance. Other accused Akashkumar is also granted bail by this Court vide B.A. No. 1230 of 2018 by order dated 10th September, 2018. It is thus seen that accused having similar role has been granted bail. Applicant is in

custody from the date of arrest. Investigation is completed and chargesheet has been filed. In the circumstances, case for grant of bail is made out.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. 330 of 2016 registered with Azad Maidan Police Station, Mumbai on furnishing PR bond in the sum of Rs.25,000/- with one or more local solvent sureties in the like amount;
- iii. Applicant shall furnish documents relating to his residence to the investigating officer after his release;
- iv. Applicant shall not tamper with evidence;
- v. Applicant shall attend Azad Maidan Police Station, Mumbai once in a month on every first Monday between 11 a.m. and 1 p.m.
- vi. Applicant shall not tamper with evidence;
- vii. Applicant shall diligently attend the dates of hearing before the Trial Court, unless exempted for some reasons;
- viii. Criminal Bail Application stands disposed off.

Sachidanand
Kuttan Nair

Digitally
signed by
Sachidanand
Kuttan Nair
Date:
2018.11.03
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(PRAKASH D. NAIK, J.)