

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

BAIL APPLICATION NO. 1231 OF 2018

Sachin Dattatraya Darge

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Ms. Shubhangi Parulekar a/w. Pranit Namde I/b. Niranjan Bhavake
for the Applicant.

Ms. J.S.Lohokare, APP for the State.

Dr. Vaishali Ishwar Kadukar, Addl. S.P. CID, Pune , Maharashtra
State present.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : SEPTEMBER 21, 2018.

P.C.

1. This is an application for bail filed under Section 439 Cr.P.C. by the aforesaid applicant, who is facing trial in Sessions Case No. 18 of 2015 on the file of the Special Judge under MCOC Act, Pune for the offences under Section 395 of IPC and Section 3, 4 r/w. 25 of Arms Act and Section 3(1)(ii) and 3(4) of the MCOC Act.

2. Heard Ms. Parulekar, the learned Counsel for the applicant and Ms. Lohokare, the learned APP for the State.

3. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR lodged by Mahesh Patne, who was working as Junior Executive with Checkmate Services Pvt. Ltd., at Baner, Pune. The FIR prima facie reveals that Bank of Maharashtra had outsourced certain services to Checkmate Services Pvt. Ltd.. and one of such service was to deposit cash in ATM machines installed at various places. On 24th May, 2015 at about 10.30 a.m. the Vault Officer Mr. Tayde and Mr. Gidade had directed the first informant to deposit cash of Rs.99,50,000/- in various ATM Machines. It is stated that he along with two security guards and custodian Mr. Suraj Pavale , took the said cash by company vehicle of Bolero make bearing No. MH 14 CP 9453, and proceeded towards the ATM Centres. They deposited Rs.14,50,000/- at ATM Centre at Somwar Peth, Pune, Rs.12,50,000/- at Camp No.1, Pune, Rs.12,00,000/- at Camp No.2, Pune. And Rs.17,00,000/- at the ATM Centre at Nira, Taluka Purandar, Dist Pune. Thereafter they proceeded towards Daund. When they reached near a village called Gulu, they saw one Maruti

Esteem Car parked by the side of the road. Suddenly, the said car came across their vehicle, as a result, they had to stop the said Bolero vehicle. It is stated that two persons got down from the said car. They were armed with Koyta and pistol. At the same time, some other persons came on three motor cycles. They were also armed with weapons. It is stated that the said persons took charge of the Bolero Vehicle. Some of them got into the vehicle and assaulted the first informant and snatched the bag containing cash of Rs.43,50,000/- as well as their personal mobile phones and cash. Thereafter they transferred the cash in the Esteem Car and proceeded further.

5. It is to be noted that the FIR was lodged against unknown persons. The records reveal that the applicant herein was arrested on 29th May, 2015. The records further reveal that sum of Rs.16,000/- was recovered from the house of the applicant. Prima facie, there is nothing on record to show that the money which was recovered from the house of the applicant had any specific mark, so as to link the same with the money which was stolen. It is also seen that one bike of Bajaj Company has been recovered at the instance of

the applicant. It is to be noted that the complainant and the witnesses had not given Registration Number or description of the bikes used by the said unknown persons who were involved in committing the said dacoity. The complainant and the other witnesses have also not identified the bike which was recovered at the instance of the applicant. Thus, prima facie there is no material to show that the said bike was used by the applicant in commission of the crime.

6. The records prima facie reveal that the applicant has been identified by the complainant in the Test Identification Parade which was held on 7th July, 2015 which was about a month after the date of arrest. Apart from the Test Identification Parade and CDR records there is no other material to link the applicant with the crime. Furthermore, it can be seen that similarly placed co-accused have been released by this Court by Order dated 8th February, 2017 in Bail Application No. 501 of 2016 and by Order dated 1st February, 2018 in Bail Application No. 1888 of 2017.

7. As regards the provisions of MCOC, the learned APP concedes

that there is no material on record to show that the applicant is a member of the gang led by Mahesh Kamalapure. As regards criminal antecedents, the learned Counsel for the applicant has submitted that the applicant has already been acquitted in respect of C.R.No. 21 of 2012 registered with Haveli Police Stn., and C.R. 320 of 2011 registered with Sahakarnagar Police Stn. He has placed on record copies of judgment dated 30th May, 2013 and 8th August, 2013.

8. Considering all the above facts and circumstances and also considering the fact that the similarly placed accused have already been released on bail, in my considered view, the applicant is also required to be released on bail on the ground of parity. Hence, the order:-

- (i) The application is allowed;
- (ii) The applicant who is facing trial in Sessions Case No.18 of 2015, be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the learned Special Judge (Under the MCOC Act), Pune;

- (iii) The applicant shall report to the Investigating Officer or the Senior Police Inspector of Police, Haveli Police station on the first and third Sunday of every month till framing of charge;
- (iv) The applicant shall not interfere with the witnesses or tamper with the evidence in any manner;
- (v) The applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer and in the bail bond;
- (vi) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

Prasanna
Pradeep
Salgaonkar

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by Prasanna
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(ANUJA PRABHUDESSAI, J.)