

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

BAIL APPLICATION NO. 1628 OF 2018

Omprakash Baddu Mandal	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Deepak P. Gautam for the applicant.
Mr. R.M. Pethe, APP for the Respondent-State.
Mr. Amol Mane, API, Waghe Estate Police Station is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 6th OCTOBER, 2018.

P.C.

1. The applicant has prayed for bail in connection with MCOC Special Case No. 21 of 2017 arising out of C.R. No. I-137 of 2017. The offences were registered at Naupada Police Station under sections 399, 400, 401, 402, 120(B) of Indian Penal Code read with Section 4, 25 Arms Act read with Section 37(1) and 135 of Bombay Police Act and 3(1)(ii), 3(2), 3(4) of M.C.O.C. Act.
2. The prosecution case is that on 18th April, 2017, office of Crime Branch Unit-I had intercepted mobile phones of persons suspected to be affiliated to Ravi Pujari and it was revealed that 15 to 20 persons were supposed to commit robbery at Teen Hath Naka having huge quantity of Gold ornaments. Under the

guidance of DCP, Crime and certain teams were formed for conducting raid. In pursuant to that raids were conducted at different places and accused were found making preparation to commit dacoity. Accused were arrested from different places.

3. It is submitted that there is no evidence to connect the applicant with offence. He was not armed with any weapon. The other accused has been granted bail by this Court. Reliance is placed on order dated 3rd April, 2018 passed by this Court in Bail Application No. 428 of 2018 in favour of Assuddin Khurshid Shaikh. It is further submitted that there are no criminal antecedents against the applicant. The provisions of MCOC Act are not attracted against the applicant. He is entitled for a bail on the ground of parity. It is submitted that another accused Tapan Mandal is also granted bail by this Court. Sessions Court has also granted bail to the accused Nos. 2, 5, 6, 7.

4. Learned APP submitted that the applicant was found in possession of the mobile phone. Sim-card of the mobile phone was not in the name of the applicant which indicate that he was planning to commit dacoity and therefore phone carrying some sim-card in the name of other person was being deliberately used by the applicant. There are several cases registered against crime

of Syndicate headed by Mohd. Jamil. The accused is from Jharkhand. Considering the nature of evidence there are no reasonable grounds to believe that the applicant is guilty of the offence with which he is charged.

5. I have gone through the order passed by this Court in Criminal Bail Application No. 428 of 2018. The said order is passed in the application preferred by Assudin Shaikh. He is the co-accused in this case. In para 5 of the said order, it has been observed that there was nothing incriminating was found when he was arrested. Confessional statement was also not found incriminating. It is also noted that one case was registered against the said accused and considering the nature of offence against the said accused there was no reasonable ground to believe that the said accused is guilty of the offence for which he is charged. Applicant was arrested with co-accused. The applicant is entitled for bail on ground of parity. It is also noted that there are no criminal antecedents against the applicant. Therefore, the case for grant of bail is made out by the applicant. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;

- ii. The applicant is directed to be released on bail in connection with C.R. No. I-137 of 2017 registered with Naupada Police Station which is subject matter in MCOC Special Case No. 21 of 2017 on furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount;
- iii. The applicant shall attend the concerned Police Station on the first Sunday of every month between 10.00 a.m. to 11 a.m. till the conclusion of the trial;
- iv. The applicant shall not leave the jurisdiction of Thane and Mumbai, without the prior permission of the trial Court;
- v. The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vi. The applicant shall inform his latest place of residence and mobile contact number and/or change of residence and mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- vii. The applicant to cooperate with the conduct of the trial;
- viii. The applicant shall file an undertaking in the trial Court with regard to clauses (iii) to (vii), within two weeks of his release;
- ix. If there are two consecutive defaults in appearing before the

trial Court or in reporting to the Investigating Officer and if there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail;

x. Criminal Bail Application is allowed in the aforesaid terms and is accordingly disposed off. It is made clear that the observations made herein are prima-facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

xi. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair

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by Sachidanand
Kuttan Nair
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