

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1792 OF 2018

Sakim Saudagar Ali Shaikh

...Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. Abdul Hafeez i/b. Abdul Wahab Khan, Advocate for the Applicant.

Mr. A.R. Kapadnis, APP for the Respondent/State.

Mr. J.S. Sonawane, Anti Narcotic Cell, Crime Branch, Thane.

CORAM : PRAKASH D. NAIK, J.

DATED : 19th DECEMBER 2018.

P.C. :

1. This is an application for bail in CR No.I-143/2017 registered with Kasarvadauli Police Station for the offences punishable under Sections 399, 401 457 of Indian Penal Code read with Section 3 and 25 of Arms Act read with Sections 37(1), 135 of Mumbai Police Act, 1951.

2. The prosecution case is that the accused were acting in collusion with each other had planned to commit decoity with

intention to commit theft of cash and gold from Bank of Maharashtra, Kasarwadavali. To facilitate dacoity, accused broke the lock of adjacent shop of Raj Motor Driving School and entered in the shop and tried to demolished wall of bank with articles carried by them. Some of the accused managed to run away from the place of incident and some of them were arrested on the spot. The applicant was allegedly standing outside the place of incident near the car, who was apprehended and country made revolver was recovered at is instance. The investigation is completed and the charge-sheet is filed.

3. The applicant is arrested on 22.07.2017. This Court had granted bail to accused Barkat Aabil Shaikh vide Criminal Bail Application No.2788/2017 by order dated 12.03.2018. The other accused Rejaul Akbar Shaikh was granted bail by this Court vide Criminal Bail Application No.2745/2017 by order dated 28.06.2018. The co-accused Mohammad Manarul Rahul Shaikh and Shahjamal Fajalu Shaikh were granted bail vide Criminal Bail Application No.1789 of 2018 and Criminal Bail Application

No.1987 of 2018 by order dated 29.08.2018.

4. Learned counsel for the applicant submitted that the applicant was found standing outside the place of incident. Although, there is recovery of country made revolver from the applicant it is not the case of the prosecution that revolver is used at the time of crime. The applicant is in custody from the date of arrest. Charge-sheet is filed.

5. Learned APP submitted that the accused were planning to commit dacoity in the Bnak. The applicant was arrested near the place of incident. He was found in possession of revolver, which was in working condition as indicated in the ballistic report. It is further submitted that application preferred by one of the co-accused was rejected by this Court vide order dated 22.03.2018. The learned counsel for the applicant submitted that the said accused has preferred second application for bail, which is pending in this court.

6. The two other accused, who were arrested from the place of incident were granted bail by this Court vide order dated 29.10.2018. The trial has not commenced. The applicant is in custody for a period of more than 15 months. The applicant was found outside the place of the incident.

7. Considering the fact that the co-accused are granted bail and the applicant is in custody for a period of more than 15 months, the applicant can be granted bail. Hence, I pass the following order :-

ORDER

- (i) Criminal Bail Application No.1792 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.I-143/2017 registered with Kasarvadavali Police Station, Thane, on furnishing PR bond in the sum of Rs.25,000/- with one or two solvent local surety in the like amount;
- (iii) The applicant shall report the concerned police station once in a month on every first Monday between 11.00 a.m. and 1.p.. till

further orders;

(iv) The applicant shall attend all the dates before the Trial Court unless precluded for any reason;

(iv) The applicant shall not leave jurisdiction of the Court without permission of the trial court;

(v) The applicant shall not temper with the evidence and/or influence the prosecution witnesses;

(vi) Application is disposed off.

(PRAKASH D. NAIK, J.)