

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

BAIL APPLICATION NO.1841 OF 2018

Shifuddin R. Shaikh

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....
Ms.Tahera Qureshi, Advocate for the Applicant.

Mrs.G.P. Mulekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 22, 2018.

P.C. :

This is an application for bail in connection with C.R.No.I-143 of 2017, registered with Kasarvdaivali Police Station, District – Thane, for the offences punishable under Sections 399, 401, 457 of Indian Penal Code (“IPC”, for short) and under Sections, 3, 25 of the Arms Act read with Sections 37(1) and 135 of Maharashtra Police Act.

2 The prosecution case is that the accused were acting in collusion with each other had planned to commit dacoity 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 demolish 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 person who was sitting in the car and managed to flee at the time of the said incident. It is also alleged that the applicant had purchased the cylinder, which was to be used in commission of crime.

3 Applicant is arrested on 22nd July, 2017. This Court had granted bail to accused Barkat Aabil Shaikh, vide order dated 12th March, 2018, passed in Criminal Bail Application No.2788 of 2017. Other accused Rejaul Akbar Shaikh was granted bail vide order dated 28th June, 2018, passed in Criminal Bail Application No.2745 of 2017. The co-accused Mohammad Manarul Rahul Shaikh and Shahjamal Fajalu Shaikh were granted bail vide order dated 29th August, 2018, passed in Criminal Bail Application No.1789 of 2018 and Criminal Bail Application No.1987 of 2018.

4 Learned advocate for the applicant submitted that the only role that has been attributed to the applicant is that he was sitting in the car, which was near the place of incident and that

he had allegedly purchased the cylinder. However, there is no use of cylinder in the crime. It is submitted that the co-accused are granted bail and the applicant is entitled for bail on the ground of parity. Investigation is completed and charge-sheet has been filed in this case.

5 Learned APP submitted that the accused were planning to commit dacoity in the Bank. Applicant was found at the scene of offence. Statements of applicants indicate that they have purchased the cylinder. It is also submitted that the applicant was involved in a serious crime.

6 Two other accused, who were arrested from the place of incident were granted bail by this Court vide order dated 29th October, 2018. Trial has not commenced. Applicant is in custody for a period of more than 15 months. The applicant was found outside the place of incident. Co-accused Sakim Shaikh is granted bail vide order dated 19th December, 2018, passed in Bail Application No.1792 of 2018. Considering the fact that the co-accused has been granted bail and that the applicant is in custody since last 15 months, applicant can be granted bail.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1841 of 2018, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.I-143 of 2017, registered with Kasarvadavali Police Station, District-Thane, on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant is directed to attend Kasarvadavali Police Station, District-Thane, once in a month on first Monday of the month between 11:00 a.m. to 01:00 p.m, till further orders;
- (iv) Applicant shall attend the trial Court on the date of hearing regularly, unless exempted by the Court;

- (v) Applicant shall not leave jurisdiction of the Court without prior permission of the trial Court;
- (vi) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- (vii) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)