

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2519 OF 2017**

Tappan @ Tappu Bhagwan
Versus

...Applicant

The State of Maharashtra

...Respondent

Mr. B. G. Tangsali for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 25th APRIL, 2018

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-137 of 2017 registered with the Naupada Police Station, Thane, for the alleged offences punishable under Sections 399, 400, 401, 402, 120(b) and 75 of the Indian Penal Code; under Sections 4, 25 of the Arms Act; under Sections 37(1), 135 of the Maharashtra Police Act and Sections 3(1)(ii), 3(2), 3(4) of the MCOC Act.
3. Leaned counsel for the applicant seeks bail on the ground of parity. He submits that the similarly placed co-accused Assuddin Shaikh

has been enlarged on bail by this Court (Coram : Revati Mohite Dere, J.) vide order dated 3rd April 2018 passed in Criminal Bail Application No. 428 of 2018. He submitted that the applicant has been falsely implicated in the said case. He further submitted that nothing incriminating was recovered from the applicant, either from his person or from the hotel room. He further submitted that the confessional statement of the applicant under the MCOC Act, has not been recorded.

4. Learned A.P.P opposed the application. Learned A.P.P has filed an affidavit of Bajirao Bhosale, Assistant Commissioner of Police attached to Thane Crime Branch, Thane City. He submits that although, the applicant's confessional statement has not been recorded, co-accused Mohd. Jamil Akhtar has disclosed, the applicant's name in his confessional statement recorded under the MCOC Act. He submitted that the applicant has ten antecedents. Learned counsel for the applicant after states that in most of the cases, the applicant after having pleaded guilty, was convicted and awarded short term sentences.

5. Perused the papers. According to the prosecution, on 18th April

2017, the police attached to Naupada Police Station, Thane, received information that 15 to 20 persons were likely to commit dacoity at a place, where gold jewellery was kept. Accordingly, the Office of the Crime Branch, Unit-I suspected that the said persons were affiliated to the Ravi Pujari Gang and as such, conducted a raid. It is further alleged by the prosecution that they had received information that about 15-20 persons were supposed to come and commit robbery at Teen Haath Naka, Thane and hence, under the guidance of the Deputy Commissioner of Police, Crime Branch, Unit I to V, Anti-Extortion Cell and Anti-Narcotic Cell, conducted a raid. Pursuant to the trap, the accused were arrested. The applicant was arrested along with co-accused from “Hotel Royal Heritage, Room No. 107”. Admittedly, nothing incriminating was found when the applicant was arrested, either from his person or in the room in which he was staying. The confessional statement of the applicant has not been recorded under the MCOC Act. As far as the statement of Sachin Gunjal is concerned, he has not named the applicant in his statement, i.e. that the applicant had visited co-accused Mohd. Jamil Akhtar in ‘hotel China Gate’. No identification parade has been held in the present case. As far as the statement of co-accused No. 1-Mohd. Jamil Akhtar is concerned, he has

named the applicant along with co-accused. However, the said statement was subsequently retracted. It is alleged to be a case of attempt to commit robbery. No weapons were found on the person of the applicant or at his instance. Similarly placed co-accused Assuddin Shaikh has been enlarged on bail by this Court vide order dated 3rd April 2018. It appears that the applicant has ten antecedents, however, in almost 6 to 7 cases, he has pleaded guilty and as such, was awarded a short term sentence. Mere antecedents cannot be ground to reject an application for bail.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or more local solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first and third Sunday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iii) The applicant shall not leave the jurisdiction of Thane and Mumbai, without the prior permission of the trial Court;

(iv) The applicant shall not tamper the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or 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;

(vi) The applicant to cooperate with the conduct of the trial;

(vii) The applicant shall file an undertaking in the trial Court with regard to clauses (ii) to (vi), within two weeks of his release;

(viii) 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.

7. The application is accordingly disposed of.

8. 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.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.