

Anand

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

BAIL APPLICATION NO. 117 OF 2019

Pravin Baban Bhoir @ Pawar

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Vinayak Patil, Advocate, for the Applicant

Mrs. P. P. Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.08.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 99 of 2013 registered with the Narpoli Police Station, Thane, for the alleged offence punishable under Section 392, 397 r/w 34 of the Indian Penal Code, under Section 3 and 25 of the Arms Act and under Sections 3(1), ii, 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act (for short 'MCOCA').

3. Perused the papers. Learned counsel for the Applicant submits that the Applicant is in custody since 01.04.2013 and that

despite, charge have been framed in 2015, the trial has not progressed and till date, only the first witness is in the witness box. He submits that although the Applicant is alleged to have been identified by two witnesses, no role has been ascribed to him. He further submits that admittedly, no person has been injured nor any weapon has been used in the commission of the offence. He submits that having regard to the same, the Applicant be enlarged on bail.

4. Learned APP has filed an Affidavit of Mr. Nitin C. Kausadikar, Assistant Commissioner of Police, Bhiwandi, District – Thane. She submits that there is ample material to show the complicity of the Applicant.

5. Perused the papers. The incident in question has taken place in the intervening night of 20th & 21st March, 2013. According to the prosecution, robbery had taken place at a petrol pump and that Rs. 5,00,000/- was robbed from the said petrol pump, from the cash room. Accordingly, an FIR was lodged as against unknown persons. During the course of investigation, the Applicant was arrested on 01.04.2013. In the identification parade, which appears to have been held after three months, the Applicant was identified by two persons. There is recovery

of Rs. 25,000/- cash at the instance of the Applicant. The Applicant has two cases registered against him. Learned counsel for the Applicant submits that the Applicant has been acquitted from the said case. Be that as it may, having regard to the fact that the trial has already commenced, it would not be appropriate to consider the Application at this stage, lest the trial gets derailed.

6. However, having regard to the fact, that the Applicant is in custody since 2013, the trial of the Applicant is expedited.

7. Learned APP informs that at about 20 witnesses are to be examined in the said case. Learned Judge to conclude the case as expeditiously as possible and in any event within six months from the date of receipt of this order. Accordingly, the Application is rejected and disposed of.

8. Learned APP assures that the Special Public Prosecutor will not seek adjournments. Similarly, the police to produce all the accused on every date. The witnesses also to be kept present on the dates given by the trial Court.

9. If for no fault of the Applicant the trial does not conclude within the stipulated period, liberty is granted to the Applicant to file a fresh Application which will be considered on its own merits. Learned APP as well as Registry to communicate the said order to the concerned learned Judge.

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

(REVATI MOHITE DERE, J.)