

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 177 OF 2019**

Rajkumar Babulal Sharma @ Bhola @ Mistri ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Aamir Mushtak Shaikh for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

ACP Mr. Prakash Nilewad from Wagle Estate Police Station, Thane, is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 21st JUNE 2019

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, 120B of the Indian Penal Code; under Sections 4, 25 of Arms Act r/w Section 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime Act.

3 Perused the papers. According to the complainant-Raveer Bayece, Police Inspector attached to the Naupada Police station, he received information on 18th April 2017 that some criminals were coming to Thane to commit dacoity, pursuant thereto, a trap was laid and the applicant along with other co-accused were apprehended. In the trap, the police recovered mobile phones, one knife, gas cutter, lighter, rope and one Santro Car from the accused. A chopper has been seized from the applicant in the trap. Thereafter, FIR is registered as against the accused.

4 Admittedly, the applicant was found on the spot in the trap that was laid by the police along with other co-accused. Learned counsel for the applicant states that recovery of a chopper from the applicant is doubtful in the facts.

5 Whether or not the recovery is doubtful, is a matter which will be decided by the trial Court. Admittedly, all the accused were in the car when they were apprehended and as such it cannot *prima facie* be said that the applicant was the only person who was in possession of the chopper,

inasmuch as, there are articles i.e. gas cutter, lighter, rope, one knife, etc. found with other persons as well. *Prima facie*, considering the material on record, there is no reasonable ground to come to the conclusion, that the applicant is guilty of the offence.

6 The applicant has three antecedents. However, the said cases registered with the Pydhonie Police Station are of the year 1999. It appears that some of the co-accused, who have been enlarged on bail, also had antecedents. Admittedly, the applicant along with co-accused were arrested prior to committing dacoity.

7 Considering the aforesaid, the application is allowed 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 Monday of every month between 11:00 a.m. to 12:00 noon till the conclusion of the trial;
- (iii) The applicant shall not tamper the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) 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;
- (v) The applicant to cooperate with the conduct of the trial;
- (vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is allowed in the aforesaid terms and is accordingly disposed of.

9 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.

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

REVATI MOHITE DERE, J.