

nsC.

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

***CRIMINAL APPLICATION NO.249 OF 2019
(FOR BAIL)
IN
CRIMINAL APPEAL NO.1532 OF 2018***

Suraj Jaysing Jadhav	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Nitin Sejpal a/w Ms.A.B.Desai, for the Applicant.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 10th APRIL, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.
3. The Applicant alongwith other co-accused vide Judgment and

Order dated 5th December, 2018, passed by learned Additional Sessions Judge, Mangaon – Raigad, in Session Case No.31 of 2016 have been convicted and sentenced as under:-

- for the offences punishable under Section 395 of the Indian Penal Code to suffer rigorous imprisonment for 10 years and to pay fine of Rs.25,000/-, in default, to suffer rigorous imprisonment for 2 years each;
- for the offence punishable under Section 397 of the Indian Penal Code to suffer rigorous imprisonment for 7 years each;
- for the offences punishable under Section 460 of the Indian Penal Code to suffer rigorous imprisonment for 10 years and to pay fine of Rs.25,000/-, in default, to suffer rigorous imprisonment for 2 years each;
- for the offences punishable under Section 120B of the Indian Penal Code to suffer rigorous imprisonment for 6 months each;

All the sentences were directed to be run concurrently.

4. Learned Counsel for the Applicant states that the Applicant was on bail pending trial, and that he not misused or abused the liberty granted to him. He further submits that neither PW1 – Sandip Nare, PW2 - Samidha Nare and PW3 – Mangesh Pawar (neighbour) have identified the

Applicant either in the identification parade or in the Court, as being present at the time ,when dacoity was committed.

5. Learned APP opposes the application. He submitted that although the Applicant has not been identified by either PW1, PW2 or PW3 (neighbour), according to PW17 – Dinkar Mandale, the Applicant had accompanied the accused no.1- Deva Mohite and had got certain gold ornaments, which were taken during the dacoity, melted. He submitted that PW17, had identified both the Applicant and accused no.1 – Deva Mohite, as having come to his shop for melting the gold ornaments. He further submitted that thereafter the Applicant and accused no.1- Deva Mohite visited the shop of PW15 – Santosh Nikam, from where accused no.1 - Deva Mohite, purchased gold ornaments after giving the melted gold. At this stage, learned counsel for the Applicant, submitted that there is no transaction or any receipt to show that the Applicant had given the gold ornaments or had purchased the gold ornaments from PW15.

6. Perused the papers. Admittedly, PW1 – Sandip, PW2 – Samidha, in whose house dacoity was committed have not identified the

Applicant as being present at the time when the dacoity was committed. The other two co-accused – Pranil Patekar and Roshan Mhatre are admittedly identified by PW1, PW2 and PW3 (neighbour). It appears that since co-accused - Pranil and Roshan were identified in the Test Identification Parade as well as in the Court, their bail applications were rejected by this Court. However, as far as, the present Applicant is concerned, as noted above, he is not identified either in the Test Identification Parade or before the Court either by PW1, PW2 and PW3 (neighbour). It is not in dispute that the Applicant was on bail pending trial, and that he not misused or abused the liberty granted to him. The Appeal has been admitted this Court vide order dated 7th January, 2019.

7. Considering the aforesaid, the application is allowed and the Applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal, on the following terms and conditions :

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;

ii) The Applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till his Appeal is finally disposed of;

iii) The Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

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

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

REVATI MOHITE DERE, J.