

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1108 OF 2019

Sambhaji Vilas Kawale] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Sanjeev Kumar Bapu Deore a/w Ms. Suchita Pawar, Advocate for the Applicant.

Mr. Prashant Jadhav, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 6th SEPTEMBER, 2019.

P. C. :-

1. The applicant is seeking his release on bail in connection with C.R.No.52/2017 registered with Adgaon Police Station, Nashik u/sec.395, 397 of I.P.C., u/sec.3 r/w 25 of the Indian Arms Act and u/sec. 135 of the Maharashtra Police Act.

2. The applicant was arrested on 04/05/2017 and since then he is in custody.

3. The prosecution story is that, on 10/02/2017, at about 1.00

a.m., about 8 accused came to Gaurav Petrol Pump, Lasalgaon, Nashik. They entered in the cabin forcibly. They threatened and assaulted the employees. A pistol was shown and under the threat Rs.2 Lakhs in cash, one mobile hand set and keys were taken away. One motorcycle of one employee was also taken away by the accused. On this basis, the FIR was lodged and the investigation was carried out.

4. Heard Mr. Sanjeev Kumar Bapu Deore, Ld. Counsel for the Applicant and Mr.Prashant Jadhav, Ld. APP for the State/Respondent. With their assistance, I have gone through the entire charge-sheet annexed to this application.

5. Ld. Counsel for the applicant submitted that, the test identification parade is not held and therefore there is no identification of the applicant. The only incriminating evidence is recovery of pistol and one live cartridge at his instance, which is not connected with this offence.

6. Ld. APP opposed the application and submitted that, the

applicant was arrested in a similar case and he had escaped from police custody and therefore the applicant will not be available for trial if released on bail. He therefore strongly opposed grant of bail. He also pointed out that, there are 15 antecedents against the present applicant.

7. I have considered all these submissions. The charge-sheet contains the FIR lodged by one Ketan Varade who was an employee working in the said petrol pump. Along with his statement, the statements of other employees Gorakh Balak, Sagar Gaikwad, Amar Pulvale, Sunil Kandekar are recorded. They have narrated the same story. Therefore, occurrence of the incident is not in doubt. Though the investigating agency has not taken steps to conduct the test identification parade to fix the identity of any of the accused. The charge-sheet shows that, on 09/05/2017 at the instance of the present applicant a country made pistol and a live cartridge was recovered. At this stage, this is a strong incriminating evidence against the present applicant. Thus, at this stage, it cannot be said that, there is no evidence against the present applicant, though there is only one piece of circumstantial evidence, there are 15 antecedents against the

applicant and on one occasion the applicant had even escaped from the police custody. In this view of the matter, as rightly submitted by Ld. APP, it cannot be assured that the applicant would be available for trial if released on bail. Taking overall view of the matter and considering all these factors, I am not inclined to grant bail to the present applicant. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)