

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

CRIMINAL BAIL APPLICATION NO. 1175 OF 2019

Akshay Ramesh Jadhav	...Applicant
Vs.	
State of Maharashtra	...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 856 OF 2019**

Sandip Sahebrao Khairnar	...Applicant
Vs.	
State of Maharashtra	...Respondent

- Mr. Tejas Hilage, Advocate for the Applicants.
- Smt. A. A. Takalkar, APP for the State.
- Mr. D. S. Jadhav, ASI, Chakan Police Station.
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CORAM : SARANG V. KOTWAL, J.
DATE : 9th SEPTEMBER, 2019

P.C. :

1. Both these applications are decided together, because they arise out of the same offence. For the sake of convenience, both these applicants, in these applications, are referred to hereinafter by their names.

2. The applicants are seeking their release on bail in connection with CR No. 777/18 registered at Chakan Police Station, for commission of offence punishable under Sections 399 and 402 of

the IPC. The applicants are arrested on 1st September 2018 and since then they are in custody. The investigation is over and the chargesheet is filed.

3. The FIR is lodged by API Dattatray Jadhav on 1st September 2018. He has stated in his FIR that on 31st August 2018, at about 11 p.m., he alongwith his other colleagues were on patrolling duty. They were in MIDC, Mahalunge around that time. They observed that five persons were standing suspiciously near HP Petrol Pump in Nighoje village. When the police party tried to approach them for making inquiries, two of them escaped on their motorcycles and three were caught at the spot. The present applicants were amongst the three, who were caught on the spot.

4. The FIR further mentions that the applicant Sandip Khairnar was found in possession of knife. Applicant Akshay Jadhav was found in possession of a nylon rope and other accused Arnav was found in possession of chilly powder. The informant and others were convinced that they were planning to commit dacoity. On these allegations the applicants were apprehended and the FIR was lodged. The applicants were arrested at the spot as mentioned

earlier.

5. The investigation papers mostly consist of the statements of other police officers, who accompanied the first informant. They have narrated the same story. Apart from these witnesses, there is a statement of one Mandar Kulkarni, whose motorcycle was stolen and was found with the present applicants when they were apprehended.

6. Heard, Mr. Tejas Helage, learned counsel for the applicants as well as Smt. Takalkar, learned APP for the State.

7. Mr. Helage submitted that the present applicants were falsely implicated because there was some exchange of words between the police and applicants. He submitted that not only this offence, but other offences were also registered against the applicants falsely. He submitted that so far as the theft of motorcycle is concerned, that offence is compounded with the owner of the motor cycle, Mandar Kulkarni. He, therefore, submitted that those allegations should not come in the way of the applicants for their release on bail.

8. Learned APP opposed these applications and submitted that

besides this offence, there are other two offences registered against the applicants. She submitted that the applicants were found in possession of knife, nylon rope and chilly powder, which shows that they had intended to commit dacoity.

9. I have considered these submissions. So far as the theft of motorcycle is concerned, as submitted by the learned counsel for the applicant that offence is compounded. Therefore, I am not taking that particular offence into consideration for deciding these applications. However, the fact remains that the applicants were found with that motorcycle when they were arrested. The other allegations against the applicants are that they were found with the instruments which could be used for committing dacoity, needs serious consideration. Possession of these articles, at this stage, is not explained by the accused. This, however, is the subject matter of trial. Except for the applicant Sandip Khairnar the other two did not have any deadly weapon which could assist them in committing dacoity. Thus, though, there are circumstances showing that they intended to commit an offence in the nature of dacoity, the applicants are in custody since more than a year.

They have not committed actual dacoity. Inspite of thorough interrogation, nothing further is brought on record. The evidence is consisting of the statements of police witnesses. Therefore, at this stage, I am inclined to grant bail to the applicants.

10. However, it is made clear that all these observations are prima facie in nature and the trial court shall not be influenced by any of these observations. Hence, the following order:-

ORDER

(i) The Applicants are directed to be released on bail in connection with C.R. No.777/18 registered at Chakan Police Station, on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)