

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.880 OF 2019
IN
CRIMINAL APPEAL NO.1532 OF 2018**

AADITYA NARAYAN MOHITE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Nitin Sejpal a/w. Mrs.Pooja Sejpal, Advocates for the Applicant.

Mr.A.R.Kapadnis, APP for the Respondent – State.

Mr.Ashish G. Nate, PN/1436, Raigad Poladpur Police Station,
present in court.

CORAM : A. M. BADAR, J.

DATE : 14th OCTOBER 2019

P.C. :

1 By this application, applicant/accused no.3 Aditya Mohite is seeking his release on bail during pendency of the appeal filed by him. He, along with the co-accused, is convicted

for offences punishable under Sections 395, 397 and 460 of the Indian Penal Code. On each count, he as well as the co-accused, are sentenced to suffer rigorous imprisonment for 10 years, 7 years and 10 years respectively apart from imposition of fine and default sentence.

2 Heard the learned counsel appearing for applicant/accused no.3 Aaditya Mohite. He pointed out that on 12th February 2019, similar application of co-accused Pranil Patekar (accused no.4) and Roshan Mhatre (accused no.5) was rejected by this court vide order on Criminal Application No.57 of 2019. However, subsequently, on 10th April 2019, application of accused no.2 Suraj Jadhav vide Criminal Application No.249 of 2019 came to be allowed by the co-ordinate Bench of this court (Coram : Revati Mohite Dere, J.). The learned counsel for the applicant/accused no.3 further argued that thereafter, vide order dated 24th September 2019 on Criminal Application No.938 of 2019 filed in Criminal Appeal No.906 of 2019, application for suspension of sentence and bail filed by accused no.7 Divesh

Deshmukh came to be allowed by this court (Coram : PN.Deshmukh, J.). It is argued by the learned counsel that this accused no.7 Divesh Deshmukh is attributed more serious role than the role which is assigned to applicant/accused no.3 Aaditya Mohite. According to evidence on record, accused no.7 Divesh Deshmukh had given a blow of iron rod on head of Prosecution Witness No.2 (PW2) Samidha Nare while indulging in dacoity armed with deadly weapon. However, so far as present applicant/accused is concerned, only role attributed to him is that he put sickle at the neck of son of Prosecution Witness No.1 (PW1) Sandip Nare and PW2 Samidha Nare. Therefore, the learned counsel for the applicant/accused no.3 prayed that on the principle of parity, applicant/accused no.3 Aaditya Mohite deserves to be released on bail.

3 The learned APP opposed the application by submitting that applicant/accused no.3 Aaditya Mohite is the main accused in this case. He arranged the car and he was communicating with the co-accused.

4 According to the prosecution case, as unfolded on recording evidence of prosecution witnesses, a dacoity was committed in the residential house of Rice Mill owner in the night hours of 25th November 2015 by securing entry in the house on the pretext of being customer who came for crushing the paddy in the rice mill.

5 PW1 Sandip and PW2 Samidha have deposed about the manner in which the dacoity was committed. Evidence of PW1 Sandip is to the effect that the dacoits initially started assaulting him as well as his father by means of fist and kick blows by demanding an amount of Rs.5 lakh from them. Thereafter, as seen from his evidence, accused no.7 Divesh Deshmukh gave a blow of iron rod on head of his wife PW2 Samidha. Similar is the evidence of PW2 Samidha and she has deposed that it was accused no.7 Divesh Deshmukh who had given a blow of iron rod on her head. PW16 Dr.Chinmayee Mishra, who had examined PW2 Samidha, found contused lacerated wound on parital region of PW2 Samidha.

6 Evidence on record shows that during Test Identification Parade as well as while in dock, PW1 Sandip and PW2 Samidha have duly identified accused no.7 Divesh Deshmukh so also the present applicant/accused.

7 On this backdrop, it is seen that vide order dated 24th September 2019 passed in Criminal Application No.938 of 2019 in Criminal Application No.906 of 2019, accused no.7 Divesh Deshmukh is released by the co-ordinate Bench of this court. Therefore, on the principle of parity, the present applicant/accused also deserves to get similar treatment. Rather, evidence against accused no.7 Divesh Deshmukh is to the effect that he had dealt a blow of iron rod on PW2 Samidha.

8 In this view of the matter, the following order :

ORDER

- i) Applicant Aaditya Mohite shall be released on bail on his executing P.R.Bond in the sum of Rs.25,000/- (Rupees

Twenty Five Thousand Only) with one surety in the like amount.

- ii) While on bail, applicant shall mark his presence with Poladpur Police Station between 10.00 a.m. to 1.00 p.m. on the first day of each month, initially for the period of six months and thereafter, quarterly on the first day of each such month, pending appeal.

- iii) The application is disposed off as allowed in above terms.

(A. M. BADAR, J.)