

Anand

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

BAIL APPLICATION NO. 1562 OF 2019

Santosh S/o. Daulatsingh Rajput .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Ramprasad V. Gupta, Advocate, for the Applicant
Ms Veera Shinde, APP, for the Respondent – State
Mr. Rahane, PSI, Mankhur Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 23.09.2019

P.C.

. Heard learned counsel for the parties.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 151 of 2018 registered with the Mankhurd Police Station, Mumbai, for the alleged offences punishable under Sections 341, 395, 473, 427, 120B of the Indian Penal Code; under Section 25 of the Arms Act and under Sections 37(1)(A), 135 of the Maharashtra Police Act.

3. Perused the papers. According to the prosecution, the applicant, along with his associates, committed dacoity by looting cash, carried by the complainant-Vaibhav Chavan, in his car. The incident is alleged to have taken place on 13th June 2018 at 4:00 p.m. on the

Panvel-Sion Road. It is alleged that the accused brought their car and cut-across and stopped the complainant's car, in which, the complainant was carrying cash. It is alleged that the accused broke the car's windshield with a log and threatened the complainant at gun point and looted cash of Rs. 16,58,212/-.

4. As far as the Applicant is concerned, it is not the prosecution case that the Applicant was present at the spot when the Complainant was looted. It is alleged by the prosecution that the Applicant was in touch with the co-accused, who looted a car. In these circumstances, the question of identification of the Applicant does not arise. There is a recovery of Rs. 4,000/- and odd at the instance of the Applicant. However, that by itself, cannot be said to be incriminating. The Applicant has ten antecedents. However, merely because the Applicant has ten antecedents also cannot be a ground for rejecting the Applicant's bail, in the absence of some prima facie material to connect the Applicant with the alleged offences. The Applicant is in custody since January, 2018. Investigation is complete and charge-sheet is filed.

5. At this stage, learned APP states that the Applicant is a resident of Madhya Pradesh and the possibility of the Applicant not being available at the time of trial cannot be ruled out. Learned APP further states that strict conditions may be imposed.

6. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 50,000/-** with one or two local sureties from Mumbai / Thane in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **10.00 a. m. and 1.00 p. m.** till the conclusion of the trial;
- (iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant shall not leave Mumbai / Thane City, without prior permission of the trial Court;
- (v) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released 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;
- (vi) The Applicant to co-operate in the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- (vii) The Applicant shall file an undertaking with regard to

Clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) 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.

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

8. 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.

9. It is made clear, that the surety amount is pegged at Rs. 50,000/-, having regard to the antecedents of the Applicant.

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

(REVATI MOHITE DERE, J.)