

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPPLICATION NO.2212 OF 2018

Suresh Hariram Chaudhary, Age 27 years,
R/o.Galli No.4, 5, Jaymala Nagar,
Old Sangvi, Dist.Pune, Maharashtra

Applicant

versus

The State of Maharashtra

Respondent

Mr.K.M.Shine for applicant.

Mrs.A.A.Takalkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th January 2019

PC :

1. This is an application for bail. The applicant is arrested on 17th August 2017 in connection with CR No.212 of 2017 registered with APMC Police Station for offences under Sections 457, 380, 120(B), 411 r/w 34 of Indian Penal Code. Subsequently provisions of Maharashtra Control of Organized Crime Act were applied for.

2. The prosecution case is that the godown belonging to the complainant is situated at Plot No.60, Sector-23, Turbhe. Robbery was committed at the said premises and cigarettes worth Rs.91,05,714/- were stolen therefrom. The FIR was registered against unknown persons.

3. On completing investigation charge sheet has been filed. The applicant was in custody in another case and his custody was taken from the said case in the present case.

4. Learned counsel for applicant submitted that the applicant is allegedly the receiver of stolen property. He has not committed any act amounting to violating the provisions of MCOC Act. The cigarettes were meant for sale and he had no knowledge that the same were stolen property. The articles were recovered. It is further submitted that the applicant is in custody since last one and half year. Further detention of applicant is not necessary. There is no allegation that the applicant was involved in the act of house breaking or theft. The shop of accused no.1 was taken on rent and he has no other association with accused no.1 or crime syndicate. The case of applicant is only on the basis of suspicion. It is further submitted that the charge sheet has been filed on 5th October 2017 in connection with offence u/ss.457, 380, 120B, 411 r/w 34 of Indian Penal Code. The provisions of MCOC Act were applied without application of mind.

5. Learned APP submitted that the applicant is involved in the crime. He was the receiver of stolen property. It can be inferred that the applicant had knowledge that the property was stolen. He was a conspirator. Hence Section 120-B of IPC has been added in the case. The accused are members of organized crime syndicate. During the course of investigation police had recovered six boxes of cigarettes from the shop of Shobharam Chaudhary. It is submitted that four other cases are registered against applicant.

6. The case of prosecution is that the co-accused were involved in commission of offence of robbery and have stolen the cigarettes. There is nothing on record to establish that the applicant was party

to the act of committing robbery. The only evidence against the applicant is that he was receiver of the stolen property. The evidence does not disclose that as a part of crime syndicate, the applicant was involved in committing the said offence. On perusal of the documents on record it is apparent that the role assigned to the applicant is of receiver of the stolen property. There is no other evidence indicating that the applicant has participated in the crime. The prosecution is, however, relying upon four other cases registered against the applicant and it is contended that the applicant had received stolen property in the said cases wherein the main accused is also implicated as an accused. It is undisputed that the applicant was shown to be involved in the said cases which were registered and pending against unknown persons. Applicant's involvement was shown after his arrest in the present case. Learned counsel for applicant submitted that there is no recovery from the applicant in the said cases. The antecedents relates to offence of trespass and theft.

7. Considering the aforesaid circumstances and in spite of embargo under Section 21(4) of MCOC Act, I do not find that the applicant can be denied bail. In the circumstances, this application is required to be allowed.

8. Hence, I pass following order :

ORDER

(i) Criminal Bail Application No.2212 of 2018 is allowed and disposed off;

- (ii) The applicant is directed to be released on bail in connection with CR No.212 of 2017 registered with APMC Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report APMC Police Station once in a month on every first Saturday between 11 am and 1 pm till further orders;
- (iv) The applicant shall not tamper with evidence and shall attend the Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)

MST