

Anand

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

BAIL APPLICATION NO. 2994 OF 2018

Subramaniam Balkrishnan Thevar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Kuldeep Patil a/w Mr. Ankit Takle i/b. Mr. Mahesh M. Mule,
Advocate, for the Applicant

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

Mr. Nilesh Baban Tambe, API, Crime Branch, Navi Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 28.08.2019

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. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 169 of 2016 registered with the NRI Sagari Police Station, Navi Mumbai, for the alleged offences punishable under Sections 395, 397, 120B of the Indian Penal Code; under Sections 3, 25 of the Arms Act; under Section 37(1) r/w 135 of the Maharashtra Police Act and under Sections 3(1)(ii), 3(2), 3(4) of the MCOC Act.

3. Learned counsel for the Applicant submits that there is no material to connect the Applicant with the alleged offence. He submits that the only allegation against the Applicant is that he had kept the

ornaments allegedly given by co-accused – Nadar, at his mother's house in Tamil Nadu. He submits that apart from the said material, there is no other material to show that the Applicant was amongst the five unknown persons, who entered the office of Popular Finance Company and assaulted and terrorized the working staff with gun and koyta. He further states that the Applicant has no antecedents.

4. Learned APP has filed an Affidavit of Ajay Ramrao Kadam, ACP, Crime Branch, Navi Mumbai. Learned APP does not dispute the fact that the Applicant was not amongst the five unknown persons, who entered the office of Popular Finance Company, where the incident took place. He however, states that the Applicant had kept the ornaments in Tamil Nadu with his mother. Learned APP relied on the statement of the Applicant's mother – Smt. Yuvmal Balkrishnan.

5. Perused the papers. According to the Complainant, the incident took place on 06.08.2016 at about 14:45 to 15:00 hours. The Complainant has alleged that five persons armed with deadly weapons and fire arms entered the office of Popular Finance Company, where the Complainant was working and committed dacoity of gold weighing 21 kgs 993 grams, 900 miligrams (value of which was about Rs. 6,69,32,000/-) as well as cash of Rs. 9,50,000/-, hard disk and DVR.

6. During the course of investigation, the Applicant alongwith other co-accused were arrested. According to the prosecution, Arputraj @ Appu Palraj Nadar is the main gang leader of the organized crime syndicate and was engaged in several unlawful activities. As far as the Applicant is concerned, it is not in dispute that the Applicant was not amongst the five unknown persons who entered the office of Popular Finance Company. The allegation as against the Applicant is that he handed over the gold ornaments given by co-accused - Arputraj @ Appu Palraj Nadar to his mother. The statement of the Applicant's mother which is on page No. 806 of the Application shows that on 15.08.2016, the Applicant visited her residential house in Tamil Nadu and that he gave certain gold ornaments to her for safe keeping. She has stated that when she questioned him (Applicant) about the ornaments, he disclosed that his friend - Arputraj @ Appu Palraj Nadar had given it to him for safe keeping. Admittedly, the Applicant has no antecedents. The Applicant is in custody since August, 2016. Investigation is complete and charge-sheet is filed.

7. Considering the aforesaid, it is difficult to come to the conclusion that the Applicant is guilty of the alleged offences with which he is charged. Accordingly, 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. 25,000/-** with one or more local sureties 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 12.00 noon** 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 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;
- (v) The Applicant shall not leave Mumbai City / Thane City without prior permission of the trial Court;
- (vi) The Applicant to cooperate with the conduct of the trial and attend the Court on every date, 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.

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

9. 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.

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

(REVATI MOHITE DERE, J.)