

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

BAIL APPLICATION NO.2338 OF 2019

Mahadev Limbaji Khapare	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

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Mr.Vikas B. Shivarkar, Advocate for the Applicant.
Mr.H.J. Dedhia, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : FEBRUARY 03, 2020.

PC :

1 The applicant prefers this application for bail in C.R. No. 304 of 2018 registered with Nigadi Police Station, Pune, for offences punishable under Sections 395, 109, 120B read with 34 of Indian Penal Code (“IPC” for short) and Section 4(25) of Arms Act and Section 37(i) read with Section 135 of Maharashtra Police Act. The applicant was arrested on 11th May, 2018.

2 The FIR was lodged by Mahesh Ramchandra Patne on 3rd May, 2018. The statement was recorded by police at Dhanashree Hospital, Sambhaji Nagar, Chinchwad, Pune, where the complainant is undergoing treatment. The first informant is working with Checkmate Services. Dattatray Ingawale was working with the complainant as custodian and Bhausahab Chakale has employed as

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driver and Amol Rathod working as security guard. The company had provided Mahindra Bollero Vehicle to the complainant and others. They are required to collect the cash from Wakad, Thergaon, Nigadi, Aakurdi and other places from the offices of LIC and same was required to be deposited with ICICI Bank. On 3rd May, 2018 Bhausahab Chakale was driving the vehicle Mahindra Bollero. The complainant and others proceeded for collecting the cash by Mahindra Bollero vehicle. Amol Rathod was on leave. They proceeded to ABRS Wakad, Pune and collected cash of Rs. 31,226/- and proceeded towards Choramandalam, Dange Chowk, Pune. However, the cash was not available. Thereafter, they proceeded to LIC office at Aakurdi, Pune. They collected cash of Rs. 2,78,756/- and proceeded to LIC office, Yamuna Nagar, Nigadi, Pune. The vehicle was parked near the office. Driver Bhausahab Chakale went to the office of LIC at Yamuna Nagar, Pune and collected cash of Rs. 22,51,053/- The cash was kept in bag. The complainant and Bhausahab Chakale came near the Bollero Car at about 1.35 p.m. Two persons came from behind the complainant and pointed out the knife on his neck and demanded the bag. The complainant did not handover the bag. The accused then threatened the complainant and driver Chakale with the help of knife, even then the complainant did not handover the bag. The accused then assaulted the complainant

by knife on his wrists, on his palm, and abdomen and caused injuries to him. The complainant managed to get hold of knife. However, he sustained injury. The accused snatched the bag containing money and ran towards Yamuna Nagar. Complainant chased him. At some distance one person was present with Pulsar Motorcycle. The accused who had snatched bag and sent on the motorcycle and both of them fled from the place of incident. The bag was containing of Rs. 22,51,053/-, Rs. 2,78,756/- and Rs. 31,276/-. The FIR was lodged with the police against unknown persons.

3 In pursuant to registration of FIR, investigation proceeded. Statements of witnesses were recorded. Accused were arrested. Some cash was recovered at the instance of the arrested accused. The Test Identification Parade was conducted. The supplementary statement of the complainant was recorded. On completing investigation, charge-sheet was filed.

4 The applicant preferred an application for bail before the Sessions Court. The said application was rejected by order dated 4th December, 2018.

5 Learned advocate for the applicant submitted that the

applicant has been falsely implicated in this case. The applicant is in jail since long time. Investigation is completed and the charge-sheet has been filed. The trial has not commenced. The applicant is willing to abide any condition. The Test Identification Parade was conducted without following the prescribed rules. Thus, the parade cannot be considered as incriminating evidence against the applicant. The recovery of mobile phone and bike cannot be said to be incriminating circumstance against the applicant.

6 Per contra, learned APP submitted that the offence is of serious in nature. The applicant is involved in the offence. There is recovery of Rs. 2,60,000/- at the instance of the applicant. The cash is also recovered from the co-accused. The applicant was the person who was riding the Bajaj Pulsar motor cycle. He was present at the place of incident. The co-accused snatched the bag and set at the motorcycle of the applicant and both of them fled away from the place of incident. The applicant has been identified in the Test Identification Parade by the complainant and Bhausaheb Chakale.

7 The prosecution arises on the basis of the FIR lodged by Mahesh Patne with connected police station. He is working with Checkmate Services at Baner, Pune. On the date of incident, the complainant and driver of the vehicle Bhausaheb Chakale were

together. After collecting the cash, they had visited the LIC office for collecting the cash. The cash was collected in the bag. The accused tried to snatch the bag from the possession of the complainant. He retaliated and did not handover the bag to the accused. At that time the accused assaulted the complainant with knife. The incident is witnessed by complainant as well as by Bhausahab Chakale. The applicant has been identified by both witnesses. The supplementary statement of complainant was recorded. In the supplementary statement he has specified his role played by the applicant after his identification in the parade. He has specifically stated that the applicant was the person who was riding Pulsar motorcycle on which the accused who snatched the bag had set and ran away from the place of incident. There is recovery of cash of Rs. 2,60,000/- from the applicant. Supplementary statement of Bhausahab Chakale was also recorded after the Test Identification Parade. He has attributed specific overt act to the applicant as a person who was riding motorcycle and present at the place of incident and the accused who snatched the bag who set on his motorcycle and both of them managed to run away from the spot of incident. Sagar Nawale in his statement dated 4th May, 2018 had stated, Rahul Waghmare was also working with Checkmate Company. On 2nd May, 2018 at about 9.00 to 9.30 a.m. he had seen Rahul Waghmare near the company. On

inquired with him as to what reason he has come near the company he stated that he wants to collect some cash amount from one person. He was also working in the Checkmate Company and he was removed from the company on 23rd April, 2018. The complainant had sustained injury which is fortified by injury certificate. Fake number plate which was used on the motor cycle used while committing crime was recovered from the applicant. Thus, there is sufficient evidence to establish the involvement of the applicant in the crime. In the light of the nature of evidence against the applicant, case for grant of bail is not made out. However, considering the fact that the applicant is in custody from the date of arrest, trial can be expedited.

8 Hence, I pass the following order:

ORDER

- (i) Bail Application No. 2338 of 2019, stands rejected and disposed of accordingly;
- (ii) Trial is expedited.

(PRAKASH D. NAIK, J.)