

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2630 OF 2019

Siddharth @ Siddhu Ramesh Janmejey, Age 37 years, Occ.Business, R/o.B/15, Sona Mahal Apartment, Kalyan-Ambarnath Road, Shanti Nagar, Ulhasnagar (Presently lodged in jail)	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Deepak L. Mishra for applicant.
Smt.Geeta P. Mulekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 23rd January 2020

PC :

1. This is an application for bail in CR No.I-52 of 2016, dated 23rd March 2016 registered with Narayangaon Police Station, District Pune, for offences under Sections 395, 392, 363, 201, 342, 323, 504, 506 r/w 34 of Indian Penal Code and under Sections 3(1)(ii), 3(4) of MCOC Act. The applicant was arrested on 24th August 2018.

2. The case of prosecution is that on 18th March 2016 the first informant Vijendrakumar Nirmal was carrying cigarette boxes of ITC company in a truck container from Ranjangaon to Ahmedabad. At about 9.30 am the said truck reached near village Manchar, District Pune. One jeep overtook the truck and forced him to stop. Three unknown persons alighted from the vehicle and abducted the driver and cleaner along with said truck. The first informant and the cleaner were detained over night and subsequently dropped on

Badlapur-Karjat highway near godown at 3 am on 20th March 2016. The report was lodged by the driver of the truck. The co-accused Prashant Vadakh was arrested on 2nd April 2016. Test identification parade was conducted and he was identified on 5th April 2016.

3. Learned counsel for applicant submitted that there is no evidence on record to invoke provisions of MCOC Act against applicant. According to the prosecution, six cases were registered against the applicant. It is submitted that the applicant is acquitted in three cases and presently three cases including the present case is pending. The applicant has been granted bail by this Court in connection with CR No.648 of 2018 registered with Chakan Police Station. It is submitted that there is no evidence to link the applicant with the crime. He has not been identified by any witness. He was not present at the scene of offence. The prosecution is relying on the statement of owner of premises Macchindranath Mane who has stated that he had let out the room to the applicant, however, there is no document to support the said version. He has referred to the receipt issued by him towards deposit, however, the same was not produced during investigation. The burnt articles were recovered but there is no evidence to show that the same matches with the alleged goods involved in the present case. The co-accused Prashant Lekurwale was identified as a person involved in the crime has been granted bail by this Court. It is further submitted that the alleged recovery do not pertain to this case. It is submitted that other recovery cannot be linked with present case.

4. Learned APP submitted that the applicant is habitual offender. He is involved in similar cases. There is recovery of articles from the applicant. The premises which was used for storing the stolen goods

was let out to the applicant. Hence, bail may not be granted to the applicant.

5. On perusal of the FIR and other documents which are annexed to this application it is apparent that it is not the case of the prosecution that the applicant was present at the time of dacoity. He has not been identified by any witness. The goods stolen were allegedly burnt by the applicant. The prosecution is relying upon recovery of articles allegedly stolen from the custody of applicant. At the most taking the prosecution case as it is, the applicant's involvement is not shown as a person who had participated in the dacoity. Thus, at the most, he would be a receiver of the stolen property. Admittedly the goods stolen were burnt. There is no CDR record to indicate presence of applicant at the scene of offence. The statement of Macchindranath Mane who had allegedly let out the premises to the applicant, was recorded on 7th April 2016. There is no document to substantiate the version of the said witness. He has not produced the receipt of amount for the deposit made by applicant. The co-accused Prashant Lekurwale who had allegedly participated in the crime and who was identified has been granted bail by this Court vide order dated 29th November 2017 passed in Bail Application No.2285 of 2017. While granting bail this Court had observed that the test identification parade was faulty. Considering the discrepancies in the nature of evidence against applicant, in spite of invoking provisions of MCOC Act, there is no impediment in granting bail overcoming the embargo u/s 24(4) of MCOC Act. The applicant has been granted bail in CR No.648 of 2018 by this Court vide order dated 5th December 2019 in Bail Application No.779 of 2019.

6. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.2630 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-52 of 2016 registered with Narayangaon Police Station, District Pune, 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 Narayangaon Police Station once in a month on every first Saturday between 12 noon to 3 pm;
- (iv) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly unless exempted by Trial Court for some reason.

(PRAKASH D. NAIK, J.)

MST