

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

CRIMINAL BAIL APPLICATION NO.3470 OF 2019

S. Maruti Sundar Serwai @ Bhuvandriyan ..Applicant
V/s.
State of Maharashtra ..Respondent

Mr.Amey R. Deshpande for the Applicant.

Mr.Arfan Sait, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

**DATE : 14th OCTOBER 2020
(Through Video Conference)**

PC.

1. The applicant (accused No.5), along with co-accused is facing prosecution for the offence punishable under Section 395 of the Indian Penal Code, before the learned Sessions Judge at Malegaon, District-Nashik.

2. As per the complaint lodged by Pawan Kumar Kamra resident of Delhi, who happens to be a Former Sub-Divisional Magistrate (SDM), the complainant along with his wife, was traveling on 12th August 2019 by the Zalam Express. When the train had reached at Manmad at 8.30 a.m. there was a robbery/decoity

committed by some unidentified persons, in which an amount of Rs.42,000/- along with purse of the wife of the complainant and mobile phone etc., were robbed.

3. On the basis of the complaint lodged by Pawan Kumar the aforesaid offence came to be registered and after investigation a charge-sheet is filed.

4. There are in all six accused who were arrested and have been chargesheeted. The learned Sessions Judge has refused to release the applicant on bail.

5. I have heard Mr.Deshpande, the learned counsel for the applicant and Mr.Sait, the Additional Public Prosecutor, for the Respondent-State. Perused record.

6. On hearing the learned counsel for the parties it *prima facie* appears that there is no Test Identification Parade conducted during the course of the investigation. Thus at this stage, there is no *prima facie* evidence about applicant being identified by the complainant or his wife as one of the person who was involved in the incident of the robbery/dacoity.

7. The learned counsel for the applicant pointed out that even going by the complaint no hurt was caused and as such an offence under Section 395 is not made out. He points out that there is no recovery from the applicant and the investigation is complete.

8. *Prima facie* it can be seen that apart from the absence of the Test Identification Parade there is no recovery from the present applicant. Admittedly the present applicant has no criminal antecedents to his discredit. The investigation is complete and the charge-sheet is filed. In that view of the matter, the following order is passed.

ORDER

(i) The applicant be released on bail, on executing a P.R. Bond, in the sum of Rs.50,000/-with two solvent sureties of Rs.25,000/- each, out of which at least one, shall be a local surety.

(ii) The applicant shall furnish his native address along with proof, to the satisfaction of the learned Sessions Judge.

(iii) The applicant shall undertake to remain present before the learned Sessions Judge during the trial.

(iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(v) The bail bonds to be furnished before the learned Sessions Judge.

(vi) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.