

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.406 OF 2021

AMRUTLAL DHANJIBHAI PATEL

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. M.J. Bhatt, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

...

WITH

BAIL APPLICATION NO.407 OF 2021

BHIKABHAI RANCHHODDAS PATEL

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. M.J. Bhatt, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 06th MAY, 2021

PRONOUNCED ON : 08th JUNE, 2021.

ORDER :

1 Both these applications have been filed by two different accused

persons viz. Amrutlal Dhanjibhai Patel and Bhikabai Ranchhoddas Patel, who have been now arrayed as accused Nos.11 and 10 respectively by Songir Police Station, Dist. Dhule, in connection with Crime No.139/2018, for the offence punishable under Section 395, 342, 120-B, 412 of the Indian Penal Code, 1860 and under Section 3/25 of the Indian Arms Act. Both the applicants came to be arrested on 19.12.2018. They have filed present applications under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. M.J. Bhatt for the applicant and learned APP Mr. A.M. Phule for the respondent, in both applications.

3 It has been vehemently submitted on behalf of both the applicants that the applicants are aged 62 and 60 respectively. The investigation is complete and charge sheet has been filed, therefore, further physical custody of the applicants is not required for the purpose of investigation. Even if it is considered, as to what evidence has been gathered against the present applicants, it is very much clear that they have not actually participated in the incident attracting ingredients of Section 395, 342 of the Indian Penal Code or even under Arms Act. The prosecution story is that both the applicants' sons have actually taken part in the commission of the crime and thereafter the present applicants have received the amount.

Whatever recovery has been shown it is by withdrawal of the amount from bank account. This is impossible. If the amount was received illegally, it would not have been deposited in the bank. Further, certain recovery is shown from the wife of applicant Amrutlal and it is then stated that certain amount has been stated to have been spent for various reasons including purchase of flat or other articles. Wife of applicant Amrutlal is stated to have discovered amount of Rs.1,98,000/- and after withdrawing amount of Rs.98,000/- in cash from Mhaisana District Central Co-operative Bank on 20.12.2018, she had handed over the amount to police. Even if we consider these facts, yet, the role of the present applicants cannot be more than Section 411 or 412 of the Indian Penal Code. Therefore, taking into consideration the age of the present applicants they deserve to be released on bail.

4 Per contra, the learned APP submitted that only the age of the applicants need not be seen. If we consider the acts done inspite of having as to how the sons have brought so much of amount, it appears that both the applicants have received the said amount. FIR has been lodged by one Pravinsingh Darbar against six unknown persons stating that they have extorted around cash and articles worth Rs.15,55,200/-. In his supplementary statement he had stated that one Jaiprakash Vyas, who was

the cousin brother of the employer of Pravinsingh Darbar, told that the bag, which he had kept in dickey in a parcel form, was containing cash of Rs.2,77,50,000/-. There is recovery of amounts and also country made pistols, cartridges from co-accused. As regards the present applicants are concerned, their involvement is in the nature of receiving the amounts and investing it inspite of having knowledge that, that amount was received by way of dacoity. Further, it can be seen that son of applicant Amrutlal has disclosed that he has used the amount which he had received from the entire booty for purchasing house Rs.14,00,000/- and then he had given certain amounts to various persons. Investment has been made in various banks. Same is the case with co-accused Bhikabhai. Further, documents collected would show the connection between the offence and the investment. Therefore, when there is ample evidence against both the applicants they do not deserve to be released on bail.

5 At the outset, it can be said that investigation is over and charge sheet has been filed, therefore, further physical custody of both the applicants is not required for the purpose of investigation. The case of the prosecution is that both the applicants had actually participated in the commission of the crime. The allegation against them is that they received the amount. Surprising part to be noted is that the police have not arrayed wife of

applicant Amrutlal as an accused when they are coming with a case that she has discovered the amount, that is, by withdrawing it from the bank she has handed over the said amount. Even at this prima facie stage it is indigestible that the amount, which has been looted, would have been deposited in any bank account. The amount, which was allegedly handed over to some of the relatives, has been recovered from them, but even as per the prosecution story, that amount was not given by these two witnesses. Therefore, taking into consideration the age of the applicants and it appears that though they have been arrested long back in 2018, the matter has not much progressed yet. It would take long time for their trial and, therefore, they deserve to be released on bail. Hence, following order.

ORDER

1 Both the applications stand allowed.

2 Applicants viz. Amrutlal Dhanjibhai Patel and Bhikabhai Ranchhoddas Patel, who have been arrested, in connection with Crime No.139/2018 registered with Songir Police Station, Dist. Dhule, for the offence punishable under Section 395, 342, 120-B, 412 of the Indian Penal Code, 1860 and under Section 3 read with Section 25 of the Indian Arms Act, be released on P.R. of Rs.1,00,000/- (Rupees One Lac only) each with two

solvent sureties of Rs.50,000/- (Rupees Fifty Thousand only) each.

3 The applicants shall not tamper with the evidence of the prosecution, in any manner.

4 They shall not indulge in any criminal activity.

5 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)

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