

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 937 OF 2021

Shabrya @ Shabbir S/o Kundilal Chavan

Applicant

Versus

The State of Maharashtra

Respondent

Mr. N.B. Narwade, Advocate for the applicant.

Mr. S.D. Ghayal, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 8th October, 2021.

PER COURT :

1. Heard.

2. The allegations against the applicant in the First Information Report are that Police Inspector Shri Pawar had received a tip-off that one Babasaheb Bhosle and his 8 to 9 accomplices had assembled near Ghutewadi village on Ahmednagar-Daund road near Chikhali Ghat for commission of dacoity. Thereupon on 17th April, 2020 at about 1.45 am, the informant along with Police Inspector Pawar and other staff members raided the spot. They noticed that 10 to 12 persons had assembled with an intention to commit dacoity.

Thereafter, when the spot was raided, some of the persons who had assembled there ran away. Eight persons were found on the spot. Applicant was not one of those eight persons. On inquiry with those eight persons, name of the applicant was disclosed. Applicant was arrested. From the persons who were apprehended, two iron rods, one wooden rod, red chilli powder and a rope of yellow colour were seized. On these allegations, First Information Report came to be registered under Section 399 and 402 of the Indian Penal Code.

3. At the time of filing of the charge-sheet, the applicant was absconding. After his arrest, supplementary charge-sheet came to be filed.

4. Shri Narwade, learned counsel for the applicant states that supplementary charge-sheet does not show any recovery from the applicant. He submits that in the application itself he has mentioned that the applicant has criminal antecedents. Some cases are pending against him but in all the cases he has been released on bail. He submits that criminal antecedents will have no bearing if evidence in this offence is lacking to connect the applicant with the offence.

5. Learned APP submits that the applicant has criminal antecedents. He was absconding. If he is released on bail, he is not likely to be available for trial. He, therefore, prays for rejection of the application.

6. Admittedly, nothing has been recovered from the applicant. True, some criminal cases are pending against him. However, this fact will have no bearing on this application as there is no evidence to connect the applicant with the offence. Simply because there are criminal antecedents does not mean that the applicant can be detained behind the bars for an indefinite period when there is no evidence to connect the applicant with the offence. The offence is not punishable with death or imprisonment for life. Offence under Section 399 of Indian Penal Code is punishable with imprisonment for ten years and offence under Section 402 of Indian Penal Code is punishable with imprisonment for seven years. In view of this, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.

ii) Applicant be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount in connection with Crime No. I-139/2020 registered with Belwandi Polie Station, Dist. Ahmednagar for the offences punishable under Sections 399 and 402 of the Indian Penal Code, on condition that he shall attend the concerned police station twice in a week between 3.00 pm to 9.00 pm.

iii) Application is disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge