

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

CRIMINAL BAIL APPLICATION NO.73 OF 2021

Ashish Amarchand Firodiya
versus
State of Maharashtra

.... Applicant
.... Respondent

.....

- Mr.Aniket Nikam i/b. Vivek N. Arote, Advocate for Applicant.
- Smt. J.S. Lohokare, APP for the State/Respondent.
- PSI A.G. Pawar, Niphad Police Station, Nashik Road.

**CORAM : SARANG V. KOTWAL, J.
DATE : 11th JANUARY 2021**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.681/20 registered with Niphad Police Station, Nashik Rural, under sections 341, 395, 120-B of the Indian Penal Code. The Applicant was arrested on 15/12/2020 and since then he is in custody.

2. Heard Mr.Aniket Nikam, learned counsel for the Applicant and Smt. J.S. Lohokare, learned APP for the State.

3. The FIR is lodged by one Vikas Dajiba Shendge on 09/12/2020. He was a truck cleaner working with one Naim Chand Shaikh. He and driver Santosh Ghule were entrusted

with transportation of 950 boxes of liquor worth Rs.59,00,000/-. The boxes were loaded from the premises of a company at Dindori. They started travelling in the truck bearing No.MH-18-AA-8606. The driver Santosh told the first informant Vikas Shendge to take it further till Mantha and that he would join him on the next day. The first informant then took his wife in the same truck and they started travelling. When he crossed Niphad, he was intercepted by a Ertiga car. About 6-7 persons got down from the car. They forcibly entered the truck. The informant and his wife were made to sit in the Ertiga car. They were taken to some distance. After some time they were left on the road. The case of the informant is that the truck as well as the liquor bottle boxes were robbed by the culprits. On this basis FIR is lodged.

4. The case against the present Applicant is that during investigation, the tempo bearing No.MH-15-EG-9699 was seized. The stolen boxes were found in that tempo. This tempo was belonging to present Applicant, therefore he was arrested.

5. Learned counsel Mr.Nikam submitted that at the time

of incident, the Applicant was travelling to Ayodhya which can be verified from his mobile phone location. He received call from the real offenders that they were in urgent need of a tempo for transporting liquor boxes. To be on a safer side, the Applicant asked for bills of those goods, which were sent on Whatsapp message. He, in good faith, gave his tempo for transportation of those boxes because he was in the business of providing tempo for transportation. He submitted that he had taken all the precautions which were necessary. He was not with the culprits and he had not given his tempo for commission of offence.

6. Learned APP on instructions of Investigating Officer concurred with the statement that at the time of incident, the Applicant was travelling to Ayodhya. It was also not disputed that the Whatsapp messages were sent to the Applicant showing the bills. Therefore at this stage, the learned APP on instructions of the Investigating Officer could not take the prosecution case further except making the allegations that the Applicant had permitted his tempo to be used in the commission of offence.

7. I have considered these submissions. At this stage, there is sufficient force in the submission of Mr.Nikam that the Applicant in good faith had given his tempo to the culprits. The Applicant was not in the vicinity and there is nothing revealed in the investigation that he had any connection with the accused. The learned counsel for the Applicant submitted that the CDR shows their communication because the real offenders got in touch with him asking for his tempo. In this view of the matter, there is a strong possibility that the Applicant is innocent and he has given his tempo for transportation in good faith. Admittedly he was not one of the persons who had actually intercepted the truck and had taken it away. Therefore the Applicant deserves to be released on bail in this case.

8. Learned APP submitted that there are three antecedents against him registered at Indira Nagar Police Station. These antecedents are old, but some conditions are required to be imposed on the Applicant.

9. Hence, the following order :

ORDER

- (i) In connection with C.R.No.681/20 registered with Niphad Police Station, Nashik Rural, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station once fortnight till filing of the chargesheet and thereafter once a month for a period of one year after filing of the chargesheet and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)