

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

RAJESH
VASANT
CHITTEWAN

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CRIMINAL BAIL APPLICATION NO.435 OF 2021

Tousif Shakeel Shaikh	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

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Mr. Vivekanand V. Krishnan for the Applicant.

Ms. P.N. Dabholkar, APP for the State.

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**CORAM : SMT. ANUJA PRABHUDESSAI, J.
(Through Video Conferencing)**

DATE : 3 SEPTEMBER 2021

P. C. :

. This is the fifth bail application filed by the aforesaid Applicant, who is facing trial in Sessions Case No.73 of 2015 pending on the file of Sessions Court, Niphad, for the offence punishable under Sections 394, 120B of IPC.

2 The case of the prosecution is that on 5 May 2015 at about 11.15 a.m., the Applicant along with other co-accused came on a motorcycle and stopped the rickshaw, in which the complainant Ramdas Mahale, Manager of NDCC Bank was traveling. He was carrying cash of Rs.50 lacs in a black bag. It is alleged that the Applicant and the accused threw chilli powder in the eyes of the complainant, assaulted him and snatched the bag containing cash of

Rs.50 lacs and decamped with the same

3 The first bail application, being Criminal Bail Application No.1738 of 2015, was dismissed by this court by an order dated 3 February 2016, wherein it was observed that there was *prima facie* material to indicate that while the Applicant was in custody, he had made a disclosure statement, pursuant to which, Rs.12 lacs as well as one black colour bag, in which the complainant was carrying cash, were recovered. It was also observed that recovery panchnama *prima facie* reveals that the seal of NDCC bank was found on the bundles of the notes, which were recovered at the instance of the Applicant. Hence, this court observed that there was *prima facie* material to reasonably believe that the Applicant was involved in commission of the crime. The subsequent application was dismissed, since there was no change in circumstance. Since the Applicant was in custody since 2015, in earlier Bail Application No.1365 of 2017, by an order dated 12 July 2017 this court had given directions to the learned Trial Court Judge to dispose of the case as expeditiously as possible, and preferably within a period of one year from the date of receipt of this order. Time to dispose of the case has been extended from time to time. Report submitted by the learned Judge indicates that the trial court could not conclude the trial expeditiously, since the accused and the co-accused have challenged several orders. Moreover, the learned trial Judge had also committed the case to the Sessions Court, holding that there was *prima facie* material to show involvement of the Applicant in commission of a crime punishable under Sections 395,

120(b) r/w 34 of IPC. By an order dated 16 August 2021, the learned Additional Sessions Judge set aside the order of the JMFC, Yeola and remitted the matter to JMFC, Yeola to proceed with the trial under Sections 394, 120(b) read with 34 of IPC.

4 Learned APP for the State states that, so far evidence of ten witnesses has been recorded. On instructions, she states that the trial would be concluded within a period of three months. Considering the fact that earlier bail application was dismissed on merits and that trial is likely to be concluded within a period of three months, the Applicant would not be entitled for bail only on the ground of delay. Hence, the application is dismissed. It is, however, made clear that in the event, the trial is not concluded within three months from today, Applicant shall be at liberty to file a fresh application before this court.

(SMT. ANUJA PRABHUDESSAI, J.)