

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

CRIMINAL BAIL APPLICATION NO. 332 OF 2020

Kripansingh Shitalsingh Dudhani Applicant

Versus

The State of Maharashtra Respondent

Mr. Debajyoti Talukdar for Applicant.

Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 158 of 2018 registered with Talegaon Dabhade police station, on 29/03/2018, under sections 395 and 412 of the Indian Penal Code (for short 'IPC'). Subsequently, sections 3(1)(ii) and 3(4) of The Maharashtra Control of Organised Crime Act, 1999 (for short 'MCOC Act') and section 25 r/w. Section 4 and 27 of the Indian Arms Act were applied.

2. Heard Shri. Debajyoti Talukdar, learned counsel for the

applicant and Shri. Yadav, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') was lodged by one Vasant Phulvar. He has stated that, he was employed on a piggery of one Milind Ghare. Between the night of 28/03/2018 and 29/03/2018, at about 3:30a.m., four unknown persons came there. Out of them three were carrying knives and one was carrying iron rod. They threatened the informant. They snatched away his mobile phone and his companion Ganesh's mobile phone. One of them stood near the informant and Ganesh. In the meantime, the others tied informant's hand and all of them kept 40 pigs in a tempo and took them away. On this basis, the F.I.R. was lodged. The applicant was arrested on 08/05/2018 and since then he is in custody. The provisions of MCOC Act were applied on 05/06/2018. The prosecution case is that the accused Lakkadsingh, Arjunsingh, Bachhansingh, Sheetalsingh, Rajnikaur, Karansingh and the present applicant had formed organized crime syndicate and this particular offence was part of their activities.

4. Learned counsel for the applicant submitted that, except present applicant, all the other accused are released on bail

pursuant to the orders passed by this court or by the special court at Pune. He submitted that the applicant's case does not differ from that of the accused who are granted bail. He submitted that, there are no criminal antecedents against the present applicant. No test identification parade is held and, therefore, the applicant deserves to be released on bail.

5. Learned APP opposed this application. He submitted that, 17 pigs were recovered from the applicant's father at the instance of present applicant and, therefore, there is connection of the applicant with the alleged crime. Shri. Yadav submitted that, there is confessional statement of co-accused Bachhansingh who had implicated him.

6. I have considered these submissions and with the assistance of both learned counsel I have perused the charge-sheet. The prosecution case is that, four unknown persons had committed this offence in the night between 28/03/2018 and 29/03/2018. Significantly, no test identification parade is held to enable the informant and his companion Ganesh to identify the arrested accused. Though, there is recovery of 17 pigs at the instance of

present applicant, the allegations are that in all 40 pigs were stolen. Out of which only 17 pigs were recovered and there is no special identification mark on them to connect them with the alleged offence to show that they were taken away forcibly by the applicant and others on that particular day.

7. The confessional statement of Bachhansingh describes the manner in which the offence was committed. In that statement, he had attributed equal roles to himself, Lakkadsingh, Karansingh, Sunnysingh and the present applicant. All of them are released on bail. Therefore, applicant's case cannot be separated from their acts. Shri. Talukdar has produced an order dated 27/01/2021 passed in Criminal Bail Application No.3085 of 2019 in the case of co-accused Arjunsingh. Vide that order, this court (Coram: Revati Mohite Dere, J.) had granted bail to that accused. Except weak piece of evidence of recovery as referred to herein above, there is no difference between the case of Arjunsingh and the present applicant. Arjunsingh's role is also described by Bachhansingh in his confessional statement. Therefore, on the ground of parity also, applicant deserves to be released on bail. It

is important to note that the applicant does not have any other criminal antecedents as can be seen from the chart mentioned in the order issued under section 23(1)(a) of MCOC Act dated 05/06/2018 granting permission to apply provisions of MCOC Act. Considering the weak nature of evidence, there is a scope to believe that the applicant has not committed any offence punishable under MCOC Act and that he is not likely to commit any such offence if he is released on bail. In this view of the matter, applicant deserves to be released on bail.

8. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 158 of 2018 registered with Talegaon Dabhade police station, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)