

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.841 OF 2020

GOPAL NANDRAM RAJPUT

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Ashok Kumar Dubey and Mr.Abhinav Dubey i/b. SAVJ Law Solution, Advocate for the Applicant.

Ms.PN.Dabholkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 23rd NOVEMBER 2021
PRONOUNCED ON : 6th DECEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.25 of 2017 registered with Police Station Raigad, Pune, for offences punishable under Section 395,397, 342, 412, 201 of the Indian Penal Code (IPC) and under Section 4 and 25 of the

AVK

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Arms Act and under Section 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crime Act (MCOC Act).

2 On 2nd March 2017, informant, who was working as a watchman in Yasho Electric Private Limited, at Ranje, Taluka – Bhor, District Pune, was on duty. The prosecution alleges that at about 3.30 a.m., ten to twelve persons came near the watchman's cabin armed with bamboo sticks and swords. It is alleged that those persons assaulted the informant by bamboo sticks and asked him who are present in the premises. The informant replied that some workers are present in the company premises and escorted those persons towards the shed where the workers were sleeping. It is further alleged that those persons then assaulted the informant and workers and tied their hands and legs with the help of bed-sheets. It is further alleged that those persons stole copper and aluminum material, DVR machine from the company premises along with cash and mobile handsets of workers totally amounting to Rs.23,24,184/- and fled away. Later on, the informant lodged the report.

3 Mr.Ashok Kumar, learned counsel for the applicant, invites my attention to the Affidavit-in-Reply of the Investigating Officer and points out that there are no specific allegations against the applicant except that the stolen property is allegedly received by him. There are no criminal antecedents. In such circumstances, the applicant deserves to be released on bail.

4 Ms.PN.Dabholkar, learned APP, on the other hand, submits that the applicant was identified by the witness, namely, Sanjay Ramnik Bhanushali, in the Test Identification Parade. Similarly, the stolen articles are also recovered from the applicant. Although there are no criminal antecedents but having regard to the nature of offence, the application does not deserve consideration.

5 Perused the investigation papers. I have also gone through the Affidavit-in-Reply of the Investigating Officer. Although the provisions of MCOC Act have been applied but that appears to be against the main accused. Admittedly, the present

applicant has no criminal antecedent. Paragraphs 9 and 14 of the Affidavit-in-Reply of the Investigating Officer would show that not only the applicant was identified in the Test Identification Parade but certain stolen articles, namely, copper strips, aluminum strips, aluminum wire worth Rs.8,84,081/- were seized from the possession of the applicant. Thus, there is nothing to be recovered.

6 Investigation is already over and charge-sheet has been filed. Having regard to the alleged role played by the applicant, in my considered opinion, his custody is totally unwarranted. In such circumstances, he deserves to be released on bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Gopal Nandram Rajput shall be released on bail in Crime No.25 of 2017 registered with Police Station Raigad, Pune, on his executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The interim application is allowed and stands disposed off accordingly.
- (viii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)