

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1669 OF 2021

Shri. Irfan Yakub Momin

.....Applicant

Versus

The State of Maharashtra

.....Respondent

Mr. Vijay N. Shingnapurkar, Advocate for the Applicant.

Ms. M.H. Mhatre, APP for the Respondent-State.

CORAM : SURENDRA P. TAVADE, J.

DATE : 10th MAY, 2021.

PER COURT :

1. The applicant has filed this application for bail under Section 439 of the Code of Criminal Procedure Code, 1973 in connection with C.R.No.681 of 2020 for the offences punishable under Sections 395, 341, 120(B) of the Indian Penal Code, 1860 registered with Niphad Police Station, Nasik.

2. The prosecution case is that on 9.12.2020 one Vikas Shendge had lodged the FIR. He alleged that he alongwith driver Santosh Ghule were entrusted with the work of transportation of 950 boxes of liquor worth Rs.59,00,000/- from Dindori to Nanded. The boxes of liquor were loaded from the premises at Dindori. The boxes were loaded in the truck bearing No.MH-18-AA-8606. Driver Santosh requested the informant/Vikas to take the truck further till Mantha in Jalna District and then he would join the informant on the next day. Accordingly, the informant alongwith his wife

started traveling. When the informant crossed Niphad, his truck was intercepted by a Ertiga Car. About 6-7 persons got down from car. They forcibly entered in the truck. The informant and his wife were taken to some distance by the accused-persons and after some time, the informant and his wife were left on the road. The truck was taken to some other place and the culprit robbed the liquor boxes.

3. It is contended that the applicant came to be arrested on 10.12.2020. Since then he is in custody. Co-accused Sachin was also arrested and the investigating officer has recovered liquor boxes from his possession. Accordingly, Panchanama was prepared on 10.12.2020. It is contended that the co-accused Sachin has been released on bail by the Sessions Court on 01.02.2021. The application for bail of the present applicant was rejected twice on the ground that no Test Identification (TI) Parade was held. It is contended that the TI parade can be held even the accused is released on bail. Almost entire property is recovered by the Investigating Officer. The applicant was facing four criminal cases, out of which, in two cases he has been acquitted and other two cases are pending. The applicant is a permanent resident of Manmad. He has cooperated with the police. Hence, the applicant be released on bail.

4. The learned APP for the State submitted that the role of the present applicant and the co-accused Santosh who is released on bail is different. The applicant is the main accused, who has hatched conspiracy to commit dacoity. She also submitted that the applicant was caught red-handed. Therefore, there is sufficient material on record against him to reject his application for bail. There is possibility of his absconding. Hence,

she prayed to reject his application for bail.

5. Heard learned counsel for the applicant and the learned APP for the State. Perused the FIR.

6. It is specifically alleged that the informant was entrusted with the job of transportation of liquor boxes from Niphad to Nanded. On the way near Niphad, his truck was intercepted by a Ertiga car. The informant and his wife were taken to unknown place in the midnight and the truck was taken by the culprit. It is also mentioned in the FIR that about 6-7 had were stopped the truck and took possession of that truck. The information of incident was immediately provided to the police. The applicant came to be arrested on the next day i.e. 10.12.2020. When he was present in the truck, a detailed Panchanama was prepared wherein co-accused Sachin also shown to be present at the time of Panchanama. Recovery was also shown at the instance of the co-accused Sachin. It appears that the applicant and Sachin were part of the same gang who took away truck of the informant and tried to remove the boxes, some other articles, but they were apprehended alongwith the stolen property.

7. Learned counsel for the applicant submitted that the role of the co-accused Sachin and the present applicant is similar in nature. He is released on bail. Therefore, on parity the applicant is entitled to be released on bail.

8. On perusal of the FIR and Panchanama, it appears that the applicant and co-accused Sachin were apprehended alongwith seized muddemal. Therefore, both were present at the time of incident and they

took away the truck, which was ultimately seized by the police. So the role attributed by the co-accused Sachin and the present applicant is similar in nature. Co-accused Sachin is released on bail. Therefore, on technical ground, the applicant is entitled to be released on bail.

9. In addition to parity, the learned counsel for the applicant submits that the applicant is in custody since last four months. The entire investigation is completed. The charge-sheet is filed against the present applicant. The applicant is permanent resident of Niphad. Therefore, there is no question of his absconding. Hence, he prays to release the applicant on bail.

10. Perused the details of applicant. It appears that he is a resident of Niphad having shop premises. Therefore, it can be said that he is permanent resident of that area. There is no possibility of his absconding. Similarly, the strict conditions can be imposed upon him. Therefore, in my opinion, the applicant is entitled to be released on bail.

11. Hence, I pass the following order.

ORDER

(i) Criminal Bail Application is allowed and disposed of.

(ii) In the event of arrest of the applicant in connection with C.R.No.681/2020 registered with Niphad Police Station, Nasik, the applicant be released on bail on his executing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall not tamper with the prosecution witnesses whatsoever manner;

(iv) The applicant is directed to attend the hearing of the case

regularly in the trial Court.

(v) The applicant is directed not to leave Nasik without prior permission of this Court.

[SURENDRA P. TAVADE, J.]