

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

CRIMINAL BAIL APPLICATION NO.1281 OF 2020

Banti @ Roshan Subhash Khabiya Applicant
Versus
The State of Maharashtra Respondent

Mr. Aniket U. Nikam, Advocate a/w. Vivek Arote for the Applicant.

Smt. J.S. Lohokare, APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL, J.
DATE : 13th JANUARY, 2021
[Through Video Conference]**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.128/2020 registered at Pen Police Station, District – Raigad on 15.9.2020 under Sections 395, 363, 341, 323, 504, 506, 412 of the Indian Penal Code. The Applicant was arrested on 26.9.2020 and since then he is in custody. The investigation is already over and the charge-sheet is filed.

2. The FIR is lodged on 15.9.2020 by one Chandrakant Gunge. He has stated that he was a driver on a fourteen-

wheeler truck. He loaded his truck on 14.9.2020 with plastic granules from Supreme Company at Nagothane. It was 30 tonnes of plastic granules. He started from Nagothane at about 5:30 p.m. on 14.9.2020 to go towards Chennai. He reached near Pen in the evening. At about 8:30 p.m., his vehicle was intercepted by a Xylo car. About 5 to 6 persons alighted from that car. They over-powered him. They drove the truck and took it at some distance. After some time, the truck was stopped. The informant, cleaner and his companion were made to sit in the Xylo car. They were abused and threatened and then they were left at some unknown place after blind-folding them. After their release, they took some help and contacted Pen Police Station and this FIR was lodged. The FIR mentions that the truck worth Rs.15 Lakhs was taken away forcibly along with plastic granules worth more than Rs.25 Lakhs. On this basis, the FIR was lodged.

3. The investigation was carried out and many accused were arrested. According to the prosecution case, the actual offenders who have committed this robbery were Sadanand

Murlidhar Amrutkar, Shehanshah @ Sebu Gulhasan, Mohammed Javeer Sharik Shaikh, Hansraj @ Mannu Muneshwar, Mohammed Jakir Mohammed Iliyas and three others. The prosecution case is that at the behest of one Sadanand Amrutkar the goods were unloaded in the godown of the present Applicant and that is how he was arraigned as one of the accused. On the basis of these allegations, the Applicant was arrested.

4. Heard Shri Aniket Nikam, learned Counsel for the Applicant and Smt. J.S. Lohokare, learned APP for the State.

Submissions :

5. Shri Nikam submitted that it is a classic case where because of the bad company, a person is suffering in his life. He submitted that only because the Applicant was knowing Sadanand Amrutkar, who had taken active participation in executing robbery and stealing the goods, the Applicant is in trouble. Sadanand Amrutkar was his friend and he requested the Applicant for his goods to be unloaded in Applicant's godown and, thereafter, the goods were taken to his godown.

Since the godown was taken by the Applicant on lease, he is arraigned as an accused. He had no role to play. He had no knowledge that the goods were part of the offence. Therefore, the Applicant deserves to be released on bail.

6. Learned A.P.P. on the other hand submitted that the very fact that the entire stolen goods, which were part of the robbery committed on the highway, were found in his godown shows his complicity and he cannot feign ignorance about the entire incident. She, therefore, submitted that no case is made out for grant of bail to the Applicant.

Reasons :

7. I have considered all these submissions. With the assistance of both learned Counsel, I have perused the charge-sheet. The important document in the charge-sheet is the recovery panchnama dated 25.9.2020. On that day, the statement of co-accused Sadanand Amrutkar was recorded under Section 27 of the Evidence Act. He has given details of commission of the offence. He has stated in the statement that the goods forming part of the robbery were kept in the godown

of the present Applicant and this accused Amrutkar showed that place. Pursuant to this statement, the police had gone to that godown and entire goods were recovered. Thus, there is one strong circumstance against the present Applicant that the goods were found from his godown. However, the linking evidence between the actual offenders and the present Applicant is lacking. There is no strong evidence against him to show that he was aware that the goods which were unloaded in his godown were part of the offence of robbery on highway.

8. The lease deed executed in the year 2007 shows that the godown was taken by the Applicant from Pimpalgaon Baswant Sahakari Kharedi Vikri Sangh Limited. It is true that the Applicant does not have any mechanism to find out what goods are stored in his godown. To that extent his carelessness is obvious. Whether that would amount to an offence or not, would be a matter of trial. It would also be a matter of trial – whether he knowingly permitted the offenders to store the goods in his godown. However, at this stage that important piece of evidence is not clearly seen from the charge-sheet and,

therefore, at this stage, bail can be granted to him.

9. Learned A.P.P. pointed out that there are antecedents against him in the nature of offence of cheating in the past. No offence of robbery or dacoity is pending against the present Applicant. Therefore, bail can be granted to the Applicant with some conditions. The Applicant has his godown which he has taken on lease for a period of 30 years. He is also a resident of Taluka Dindori, District – Nashik. Hence, the following order :

ORDER

- (i) In connection with C.R.No.128/2020 registered at Pen Police Station, District – Raigad, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.1,00,000/- (Rupees One Lakh Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station once every month for a period of one year from today and he shall attend all the dates in the Court.
- (iii) Criminal Bail Application stands disposed of accordingly.

Pradeepkumar
P. Deshmane

Digitally signed by
Pradeepkumar P.
Deshmane
Date: 2021.01.15
16:15:48 +0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)