

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2585 OF 2021

Sachin Shivaji Wagh

Applicant

versus

The State of Maharashtra

Respondent

Mr.Aniket Vagal, Advocate for applicant.

Ms.Veera Shinde, APP, for State-Respondent.

Kadam, PSI, Kopar Khairane Police Station, Navi Mumbai.

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd September 2021

PC :

1. The applicant is arrested on 3rd January 2020 in connection with CR No.I-474 of 2019 registered with Kopar Khairane Police Station, Navi Mumbai for offences under Sections 406, 409, 201, 411 r/w 34 of Indian Penal Code.

2. The case of prosecution is that the complainant is the Manager of Securitrans India Private Limited. The said company is in the business of loading cash in ATM. The accused nos.1 and 2 were custodians of route no.2. The accused nos.3 and 4 were the custodians of route nos.3 and 1 respectively. The accused were assigned the duty of loading cash in ATM machines and they were provided admin cards, passwords of ATM machines. While depositing the cash at ATM machines, less amount was deposited which was revealed during audit. Hence the FIR was registered.

3. The applicant had preferred application for bail before this Court. The said application was disposed of by order dated 5th February 2021. It was contented at that point of time that the applicant is in custody from 3rd January 2020. There is no progress in trial. Learned APP has submitted that there are about 29 witnesses in the list of witness and it is not yet decided as to how many witnesses are to be examined. Learned advocate for applicant has submitted that trial may be expedited.

4. By order dated 5th February 2021 the trial was expedited. It was further directed that in the event trial is not concluded within six months from the date of the said order, the applicant was granted liberty to prefer fresh application for bail.

5. Learned counsel for applicant has submitted that period of six months is over. There is no progress in trial. Even charge has not been framed. The offences are triable by the Court of Magistrate. The applicant cannot be kept in custody for indefinite period. Five accused were granted bail. The applicant is in custody from 3rd January 2020. In spite of expediting trial, there is no progress in trial. There is nothing on record to show that how much amount was entrusted to the applicant for being deposited in the ATM machine. There is no recovery from the applicant.

6. Learned APP submitted that the offence is serious. The applicant is involved in crime. The amount is misappropriated by the applicant-accused. Huge loss is caused to the complainant. Bail may not be granted to the applicant.

7. It is pertinent to note that although this Court had expedited trial, there is no progress in trial. Charge has not been framed. The applicant is in custody for a period of about 21 months. The co-accused were granted bail u/s.167(2) of Cr.P.C.. The offences are triable by the Magistrate. Although the applicant is in custody, nothing is recovered at her instance. The applicant cannot be kept in custody for indefinite period. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.2585 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-474 of 2019 registered with Kopar Khairane Police Station, Navi Mumbai, on executing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station once in three months on the first Saturday of month between 11.00 am to 1.00 pm till further orders;
- (iv) The applicant shall not tamper with evidence;
- (v) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)

MST