

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3398 OF 2021

SUMITSINGH MANSINH SINGH)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Sharad Bhosale i/b. Mr.Dilip Bodake, Advocate for the Applicant.

Mr.Ameet Palkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 8th DECEMBER 2021
PRONOUNCED ON : 20th 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.392 of 2020 registered with Police Station Umbraj, Taluka Karad, District Satara, for offences punishable under

Section 395, 397 of the Indian Penal Code (IPC) and under Section 3 and 25 of the Arms Act.

2 Informant, at the relevant time, was employed with S.K.Petrol Pump, Umbraj. It is alleged that on 15th September 2020, six unknown persons visited said petrol pump and after filling of petrol manhandled him and threatened him with gun, when he sought payment of Rs.1870/- towards the price of petrol. The prosecution further alleges that they then entered into the office cabin of the petrol pump and started assaulting the manager. Even they forcibly removed Rs.18,000/- and also robbed the manager of cash with him and mobile phone.

3 During the course of investigation it revealed that accused no.1, namely, Vicky @ Manya Nandkumar Bansode accompanied with other accused persons including the applicant, formed a gang and being armed with weapons arrived at the petrol pump where the informant was present. When they filled up petrol in the motorcycles and informant sought payment, they

thrashed him. It is further alleged that at the instance of accused Vicky @ Manya Nandkumar Bansode, accused Sumitsingh i.e. the applicant brandished a country made pistol at the manager and the accused persons pushed him towards the office of the petrol pump and robbed him of the cash amount.

4 Mr.Sharad Bhosale, learned counsel for the applicant, submits that the FIR initially came to be lodged against six unknown persons. There is no recovery from the applicant. Accused no.5, namely, Shivam @ Shubham Manoj Singh is already enlarged on bail by this Court. Investigation is over. In such circumstances, applicant deserves to be enlarged on bail.

5 Mr.Ameet Palkar, learned APP, on the other hand, fairly submits that the present applicant could not be identified in the Test Identification Parade. However, the learned APP invited my attention to the statement of prosecution witness, namely, Krushnath Dinkar Salunkhe and submitted that there is no merit in the application and the same is liable to be rejected.

6 Perused the investigation papers. Admittedly, name of the applicant was not given at the time of lodging of the FIR as the complaint was against six unknown persons. It is also clear from the record that the Test Identification Parade was carried out after arrest of the applicant and other accused on 15th December 2020. However, in the said Test Identification Parade, the informant could not identify the applicant. Thus, prima facie, there is no evidence to show that the applicant was one of the dacoits.

7 I have also gone through the statement of Krushnath Salunkhe. His statement is all about the incident which had taken place on 15th September 2020 and is in consonance with the FIR. It is also seen from the record that his supplementary statement was recorded on 22nd October 2020 in which he states that he was told about the arrest of six persons along with their names and one of them was applicant by name Sumitsingh Mansinh Singh. This means, this witness was knowing that the present applicant has already been arrested by the police. The possibility

of the applicant being shown to him also cannot be ruled out. The police was not supposed to tell about the arrest and name of the applicant, particularly when the Test Identification Parade was to be carried out, as a result of which, in Test Identification Parade of 15th December 2020, although the informant could not identify the applicant, as noted by me hereinabove, but this witness was able to identify the applicant. There is certainly an element of doubt and therefore, the benefit of the same must go in favour of the applicant.

8 It is also seen from the record that there was recovery of Rs.2,500/- which had fallen to the share of applicant, pursuant to the disclosure statement given by him under Section 27 of the Indian Evidence Act. But that circumstance alone is not sufficient to infer the involvement of the applicant in the crime.

9 In view of above and having regard to the material on record, the applicant has made out a case for bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Sumitsingh Mansinh Singh shall be released on bail in Crime No.392 of 2020 registered with Police Station Umbraj, Taluka Karad, District Satara, on his executing P.R.Bond in the sum of Rs.20,000/- 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 application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)

**ARTI
VILAS
KHATATE**

Digitally signed by
ARTI VILAS
KHATATE
Date: 2021.12.20
14:50:14 +0530