

Anand

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

BAIL APPLICATION NO. 3628 OF 2019

**Nisha S.
Chitnis**

Mohd. Sagir @ Gulab @ Pahalwan
Mohd. Chirag Shaikh

.Applicant

Vs.

Digitally signed by
Nisha S. Chitnis
Date: 2021.01.20
16:49:55 +0530

The State of Maharashtra

.Respondent

Ms Munira Palanpurwala a/w Ms Deepa S. Amati & Mr. Mushtaq
Shaikh, Advocate, for the Applicant
Mr. P. H. Gaikwad – Patil, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 15.01.2021

P. C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 151 of 2018 registered with the Mankhurd Police Station, Mumbai, for the alleged offences punishable under Sections 341, 395, 473, 427, 120B of the Indian Penal Code; under Section 25 of the Arms Act and under Sections 37(1)(A), 135 of the Maharashtra Police Act.

3. Learned counsel for the Applicant seeks bail on the ground

of parity. She submits that this Court vide order dated 23.09.2019 has released similarly placed co-accused – Santosh S/o. Daulatsingh Rajput on bail. She submits that no identification parade has been held in the said case and that the Applicant has no antecedents.

4. Learned APP opposed the Application.

5. Perused the papers. According to the prosecution, the Applicant, along with his associates, committed dacoity by looting cash, carried by the complainant – Vaibhav Chavan, in his car. The incident is alleged to have taken place on 13th June, 2018 at 4:00 p. m. on the Panvel – Sion Road. It is alleged that the accused cut-cross the complainant's car, as a result the complainant's car came to a halt. The complainant was carrying cash. It is alleged that the accused broke the complainant's car's windshield with a log and threatened the complainant at gun point and looted cash of Rs.16,58,212/-. The Applicant is alleged to have been in the car which intercepted the complainant's vehicle. Admittedly, no test identification parade has been held. It appears that the CCTV footage also does not show the presence of the Applicant at the spot. Mere recovery of Rs. 25,000/- by itself is not sufficient to connect the Applicant with the alleged offences. The

role of the Applicant in terms of recovery of cash is similar to that of co-accused – Santosh Rajput, who was released on bail by this Court vide order dated 23.09.2019. The statement of the learned counsel for the Applicant that the Applicant has no antecedents is not disputed by the learned APP. Learned APP has not been able to point out any material apart from recovery of cash, to connect the Applicant with the alleged crime. Investigation is complete and charge-sheet is filed. The Applicant is in custody since 21.06.2018.

6. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 50,000/-** with one or two local sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **10.00 a. m. and 1.00 p. m.** till the conclusion of the trial;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- (iv) The Applicant shall not leave Mumbai / Thane City, without the prior permission of the trial Court;
- (v) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (vi) The Applicant to co-operate in the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (vii) The Applicant shall file an undertaking with regard to Clauses (ii) to (vi) in the trial Court, within two weeks of his release;
- (viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in

accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order digitally signed by Personal Assistant / Private Secretary.

(REVATI MOHITE DERE, J.)