

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2099 OF 2021

1) SURJITSINGH RAJPALSINGH TAK)
2) JITSINGH RAJPALSINGH TALK)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Vikas Shivarkar, Advocate for the Applicants.

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

CORAM : V. G. BISHT, J.

RESERVED ON : 17th DECEMBER 2021
PRONOUNCED ON : 21st JANUARY 2022

P.C. :

1 The present application has been moved by the
applicants under Section 439 of the Code of Criminal Procedure
in Crime No.64 of 2021 registered with Police Station Bhosari,
Pimpri-Chinchwad, Pune, for offences punishable under Section
399, 402 of the Indian Penal Code (IPC) and under Section 4(25)

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of the Arms Act and under Sections 37(1)(3) read with 135 of the Maharashtra Police Act.

2 On 23rd January 2021, while the informant and others were patrolling, at about 11.30 p.m., Police Sub-Inspector Mangesh Bhangе informed them that he had received an information from informer that some persons are going to arrive at ATM Center of Union Bank at Vaishnov Mata Colony, Sector – 1, Indrayani Nagar, Bhosari, Pune, to commit dacoity by their Alto Vehicle No.MH-12-DS-2605. Accordingly, a trap was laid. At about 12.35 a.m. a silver coloured Alto Vehicle No.MH-12-DS-2605 came on the said spot. Five persons alighted with weapons. Two persons out of them went inside the gate of Union Bank and the other three persons stopped on the road for keeping watch. As the police suddenly raided, the persons standing on the road made their escape good. The police then went inside the gate of Union Bank and nabbed the remaining two persons, who revealed their names as Surjitsingh Rajpalsingh Tak and Jitsingh Rajpalsingh Tak i.e. the

present applicants. They were also found in possession of bore cutter, iron screwdriver, cotton rope etc. First Information Report (FIR) accordingly came to be lodged.

3 Mr.Vikas Shivarkar, learned counsel for the applicants, submits that there is no sufficient material on record to show that the applicants along with others attempted to commit robbery or dacoity and for that matter had assembled for the purpose of committing dacoity only. Investigation is over and charge-sheet has been filed. There are no other criminal antecedents. No purpose would be served by keeping the applicants behind the bars. In such circumstances, the applicants deserve to be released on bail, argued learned counsel.

4 Mr.Ameet Palkar, learned APP, on the other hand, opposed the submissions and invited my attention to various articles found in possession of the applicants and submitted that the applicants along with other co-accused, infact, had planned for committing dacoity. Having regard to the nature of offence,

the applicants do not deserve to be enlarged on bail, argued learned APP.

5 Perused investigation papers. The FIR shows that while the three other co-accused had made their escape good, these two applicants were found in the premises of Union Bank. They were also found in possession of instruments like bore cutter, iron screwdriver, cotton rope and other items.

6 Mere fact that applicants were found in possession of weapons, as claimed by the prosecution, does not make out a case, prima facie, either under Section 399 or 402 of the IPC, in as much as, there is nothing to show that the applicants had gathered or assembled there for the purpose of committing dacoity. Even assuming it to be so, the fact remains that the investigation is over and charge-sheet has been filed. No other criminal antecedents are brought on record. The trial may take its own time. In such circumstances, no purpose would be served by keeping the applicants in custody.

7 Therefore, I am inclined to allow the application.

Hence, I pass the following order :

ORDER

(i) Applicant No.1 Surjitsingh Rajpalsingh Tak and Applicant No.2 Jitsingh Rajpalsingh Tak shall be released on bail in Crime No.64 of 2021 registered with Police Station Bhosari, Pimpri-Chinchwad, Pune, on their executing P.R.Bond in the sum of Rs.25,000/- each, and on furnishing one or two sureties in like amount, by each of them.

(ii) The applicants shall not tamper with prosecution evidence.

(iii) The applicant shall attend the concerned police station twice in a week commencing from 1st February 2022, i.e. on every Tuesday and Thursday, in between 11.00 a.m. to 1.00 p.m., till framing of the Charge.

(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.)