

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3706 OF 2021

Ajay Rama Bhalshankar

..Applicant

V/s.

The State of Maharashtra

..Respondent

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Mr. Aniket Nikam a/w Ashish Satpute a/w Piyush Toshnival a/w
Amit Icham i/b Mr. Vivek Arote for the Applicant.

Mr. N.B. Patil, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 10 MARCH 2022

P.C.

1. By this application, the Applicant (accused No.4) is seeking bail in Crime No. 169 of 2016 of Police Station Warje Malwadi, District Pune under Section 387, 395 read with Section 34 of the IPC and Section 37(1) read with Section 135 the Maharashtra Police Act and Section 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 and Section 3/25 and 4/25 of the Arms Act.

2. The prosecution case as disclosed from the complaint dated 05.04.2016 lodged by Sandeep Sirsat is that on 04.04.2016 while the informant was returning home at about 8.30 p.m., the

Applicant and the co-accused intercepted him in front of Mahananda Pan Shop at Balaji Colony, Warje, Pune. The Applicant and the co-accused were armed with weapons such as sticks, iron rod and sickle. The co-accused pulled the informant from the two wheeler and demanded an amount of Rs.50,000/- after threatening the informant. The informant claims that the accused Raja Admane and Manoj had caught hold of his hands and legs and co-accused Mandar Joshi and Mahavir Ovhal had placed a sickle to his neck. Insofar as the present Applicant is concerned (who according to the prosecution is the gang leader) along with Gutya alias Pravin Thambare had snatched an amount of Rs.15,000/- from his pant's pocket and thereafter all of them fled away.

3. In this case, after investigation a chargesheet is filed.

4. I have heard learned counsel for the parties. Perused record.

5. The record discloses that the co-accused Mandar Joshi (A1) Mahavir Ovhal (A2) have been granted bail by the learned Sessions Judge while the accused Avishkar Admane (A3) has been granted bail by this Court by order dated 18.02.2019 in Criminal Bail Application No. 1558 of 2018.

6. The learned counsel for the Applicant submitted that alleged confession by the co-accused Manoj Admane has been found to be retracted by the learned Special Court as well as this Court. It is submitted that there are five criminal cases against the accused who have been released on bail. The learned counsel pointed out that although there are two criminal cases against the present Applicant, apart from the present one, the Applicant does not share any common criminal case with the co-accused so as to indicate that the offence was part of the continuing criminal activity of the organised crime syndicate.

7. The learned APP has submitted that the Applicant is the gang leader and has criminal antecedents to his discredit. The learned APP pointed out that Applicant has attributed specific role of snatching of the amount from the informant which distinguishes his case from the co-accused, who have been granted bail. Therefore, the submission of the learned APP is that parity may not apply.

8. I have considered the circumstances and the submissions made.

9. Once it is found that there are no common offences shared by the co-accused, the very case that the incident was part of the continuing unlawful activity of the organised crime syndicate

cannot prima facie be accepted. Insofar as confession of Manoj is concerned, prima facie it appears that he has assigned lesser role for himself and implicated all the co-accused. Even that confession is found to be retracted. The Applicant was arrested on 05.08.2016 and has completed more than 4 and ½ years in custody.

10. Considering the over all circumstances, the following order is passed:

ORDER

i) The Applicant **Ajay Rama Bhalshankar** be released on bail in Crime No.169 of 2016 registered with Warje Malwadi Police Station, Pune, on executing a PR Bond in the sum of Rs.1,00,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall undertake to remain present before the learned Special Judge, during the course of trial, unless exempted.

iii) The Applicant shall not directly or indirectly tamper with the prosecution evidence/witnesses.

iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

v) In case it is noticed that the Applicant is involved in similar type of offence, liberty to the prosecution to move for cancellation of his bail.

vi) It is made clear that the observations herein are essentially of a prima facie nature and the learned Special Judge shall not be influenced by the same at the trial.

vii) Criminal bail application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)