



Diksha Rane

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

BAIL APPLICATION NO.400/2023

SHUBHAM @ CHIKYA VISHNU JADHAV ..APPLICANT
VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Shailesh Kharat for the applicant.
Ms. Rutuja Ambekar, APP for the State.
PSI S. J. Kachare, Shikrapur Police Station, Pune Rural.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 11, 2023.

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 394, 120-B read with 34 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 3(1)(ii), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short), registered on 20/11/2017 vide C.R. No.595/2017 with Shikrapur Police Station.
- 3.** There are in all nine accused and one is juvenile. The

applicant is the accused no.3. The applicant is alleged to be the gang leader. In so far as the present offence is concerned, it is the accusation that two of the members of the gang i.e. accused no.1-Sachin Dilip Rakshe and accused no.2-Nandlal Dilip Hole went on the bike to commit the offence. The accused nos.1 and 2 stopped motorcycle of the informant, assaulted him and fled away with a bag containing cash of Rs.15 lakhs.

4. So far as the accused no.1 - Sachin Rakesh who was actually involved in the commission of the robbery is concerned, he has been enlarged on bail by this Court by an order dated 28/11/2022 in Bail Application No.1362/2021. The accused no.2 has also been enlarged on bail.

5. I have perused the affidavit which has been filed on behalf of the prosecution. There are as many as six offences registered against the present applicant. Apart from the present offence, there is an offence punishable under Sections 394, 120-B read with 34 of the IPC of Shikrapur Police Station. There is one C.R.No.227/2015 of the M.I.D.C. police station registered under Sections 395, 397 of the IPC read with Section 3/135 of the Mumbai Police Act read with

Section 4/15 of the Arms Act and C.R.No.230/2015 of the M.I.D.C. Police Station, Ahmednagar registered under Section 394 read with 34 of the IPC. The two other C.Rs. are under Section 324 of the IPC. The accusation against the present applicant is that he is the mastermind of the present offence.

6. Learned APP submitted that it is at the instance and behest of the present applicant the offence was committed. The applicant is a gang-leader who asked one of the accused to hand over his motorcycle to the accused nos.1 and 2 which is used in the commission of the offence. From the present accused an amount of Rs.50,000/- was recovered. Total recovery from the other accused is Rs.7,98,000/-. The material against the applicant is in the form of two confessional statements of the co-accused.

7. The applicant was arrested on 20/11/2017 and is in custody for more than five years and ten months with no possibility of the trial concluding any time soon. I am informed that even the charge has not been framed.

8. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk.

Considering the period which the applicant has undergone in custody as an undertrial, on the ground of long incarceration, I am inclined to enlarge the applicant on bail by imposing stringent conditions.

9. Considering his propensity to commit similar type of offences and since the witnesses should not feel threatened by his presence in the two districts from where he operates. It is necessary that he does not enter these two districts during the pendency of the trial. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Shubham @ Chikya Vishnu Jadhav in connection with C.R. No.595/2017 with Shikrapur Police Station, shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Shikrapur police station once in a month on every first Monday of the month between 11.00 a.m. and 1.00 p.m. till trial concludes.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) Till the trial concludes the applicant shall not enter and reside in the Pune and Ahmednagar Districts except for the purpose of reporting to investigating officer and attending trial.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change while residing out of Pune District and Ahmednagar District.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport, if any, to the investigating officer.

10. The application is disposed of.

(M. S. KARNIK, J.)