



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

BAIL APPLICATION NO. 406 OF 2023

BAKYA BANDYA KALE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. G.S. Jadhav, for the Applicant.

Ms. Veera Shinde, APP for the State.

PSI-Mr. M.K. Avnave, Daund Police Station present.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 05, 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 395, 397 of the Indian Penal Code, 1860 ('IPC', for short) and under sections 3(1)(i), 3(1)(ii), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short) registered on 17/04/2017 vide C.R. No.205 of 2017 with Daund police station. The applicant was arrested on 10/09/2017.

3. The FIR is lodged on 17/04/2017. The informant stated that on 16/04/2017, her husband and mother-in-law had

gone to Paithadi, Taluka-Daund. At around 1.30 a.m., as the informant and those present in the house heard noise of knocking of door, they woke up. They found that 5 dacoits had entered in the house. They were demanding ornaments and cash. One of the dacoit was standing near the door and was keeping vigil. They forcibly took away ornaments and cash from the house. While leaving the house, they confined the informant and others in a room and room was latched from outside. The gold ornaments along with cash of total worth Rs.60,000/- were stolen.

4. The applicant was arrested on 10/09/2017. The applicant is in custody for more than 6 years and 2 months. Even charge has not been framed. The trial is likely to take a long time to conclude. Prima facie, I am satisfied that there are materials against the applicant. Learned APP is justified in contending that the applicant has been identified in the Test Identification Parade. The applicant is a gang-leader. Prima facie, there is materials to show his involvement. I have perused the affidavit-in-reply filed on behalf of the respondent and affirmed by Shri Swapnil C. Jadhav, Sub-Divisional Police Officer, Daund Division, Pune

Rural, District Pune. The list of the offences registered against the applicant indicates that there are as many as 13 offences registered against the applicant under the various provisions of IPC as stated therein including the present offence. The applicant has been acquitted in 5 cases. The applicant is on bail in respect of other cases. I am inclined to enlarge the applicant on bail only on the ground of long incarceration. The trial is not likely to conclude any time soon. There are 21 witnesses to be examined. Learned APP submits that the applicant is residing at Akoni, Taluka-Karjat, District-Ahmednagar and he will continue to reside there. The investigation is complete. The charge-sheet has been filed. Considering the propensity of the applicant in committing offence in the area of Pune and Ahmednagar districts, I am inclined to impose stringent conditions on the applicant while enlarging the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.

- (b) The applicant- Bakya Bandy Kale in connection with C.R. No.205 of 2017 registered with Daund police station

shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.

(c) The applicant shall report to the investigating officer of Daund police station once in a week on every Sunday between 11.00 a.m. and 1.00 p.m.

(e) 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.

(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.

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

5. The application is disposed of.

(M. S. KARNIK, J.)