

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 541 OF 2022

Shahrukh @ Aati Rahim Shaikh ... Applicant

V/s.

State of Maharashtra ... Respondent

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Mr. Karan Singh Rajput, Advocate for Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 11th SEPTEMBER 2023

P. C:-

1. By this Application, Applicant is seeking bail in C.R.No. 200 of 2021 registered with Wanawadi Police Station, Pune City for the offence punishable under Sections 397, 341 read with 34 of Indian Penal Code, 1860 (for short "IPC") and under Section 4 read with Section 25 of the Arms Act and Section 37(1) and 135 of the Bombay Police Act, 1951 and under Section 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime, 1999 ("MCOC Act").
2. It is the prosecution's case that first informant Balasaheb Ambhore was working as a manager at a petrol pump called 'Magar Petrol Pump' located at Sayyed Nagar Railway Gate, Handewadi

Road, Hadapsar, Pune. It is alleged that amount/money collection out of the petrol pump business was divided in three shifts specifically night shift at 7 a.m., morning shift at 2.00 p.m. and afternoon shift at 10.00 p.m. At the morning shift, the first informant used to give all details of money collection to his owner namely Anand Lahoti and thereafter as per instructions from the owner he used to deposit the same with their banker i.e. ICICI Bank, Hadapsar.

3. It is alleged that on 14.06.2021 at about 7:00 a.m., the first informant took the accounts of money collection done on the previous night from the workers of night shift and kept it in the cupboard. The first informant thereafter went home and returned to the petrol pump at 12.15 p.m. Since it was Monday, the amount collected was more than usual due to the closure of banks over the weekend. It is mentioned in the FIR that about 1.15 p.m., the first informant was carrying a total amount of Rs.8,74,250/- to be deposited in the bank by putting the entire cash in a blue colour bag. While the first informant was riding his Activa motorbike on a road proceeding towards Sasannagar via Jain Township Bhaji-Mandi, he was passing through the area near railway line which had an underground road. It is alleged that at that moment, two

unknown persons came towards him on a black Aactiva motorbike. Those unknown men were wearing blue colour jerkin with white colour stripes on it and the jerkin cap was on their head as well as white colour handkerchiefs were tied to their face. It is further alleged that those two unknown men of having intercepted first informant's Aactiva with their motorbike and threatened him with a sickle. One of the two persons had held the right side handle of the first informant's motorbike, at that time one of the two unknown persons snatched away the bag hung on the shoulder of the first informant and the other person ran after him with sickle. When the first informant tried to run away from the spot, one of the accused threw sickle at him. The first informant raised hue and cry for the help but in vain. FIR came to be registered against two unknown persons. In the investigation, police arrested Applicant and other two accused in connection with the present crime.

4. It is contention of learned Counsel for the Applicant that Applicant has been arrested on the basis of confessional statement of co-accused Prajyot Zamare. There is no evidence except the confessional statement of co-accused Prajyot Zamare. In the confessional statement, co-accused Prajyot Zamare has stated that when they met with other accused, at that time, Applicant and Azim

were present. Learned Counsel further submitted that 24.06.2021 was the date of prior approval whereas Applicant was arrested after five days i.e. on 29.06.2021. On 29.06.2021, confessional statement was recorded and Applicant was arrested on 03.08.2021. It means before confessional statement prior approval was taken. Hence, requested to allow the Application.

5. It is the contention of learned APP that, Applicant has antecedents. The confessional statement of co-accused Prajyot Zamare shows involvement of the Applicant in the said crime as Applicant was present when conspiracy was hatched in respect of the said crime. If Applicant is released on bail, he may threaten prosecution witnesses, hence requested to reject the Application.

6. I have heard both the learned Counsel.

7. Perused the FIR and charge-sheet. Admittedly, FIR was lodged against two unknown persons. In connection of this crime, Police have arrested six accused along with the Applicant. Co-accused Prajyot Zamare in his confessional statement has stated that co-accused Ubed told him about the cash collection in the petrol pump. Thereafter, he met Talim Khan, Ubed Khan, at that time Azim and Applicant were present. Except this confessional statement, there is nothing on record to connect the Applicant with the present crime.

There is no recovery at the instance of Applicant. From the confessional statement of Prajyot Zamare it does not appear that Applicant was the part of conspiracy. Applicant is behind the bar more that two years.

8. In view of the above, I pass following Order:

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 200 of 2021 registered with Wanawadi Police Station, Pune City, on executing P.R.Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (ii) Applicant shall attend the concerned Police Station once in a month i.e. on first Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or

attempt to influence or contact the complainant,
witnesses or any person concerned with the case.

9. The Application is allowed in the aforesaid terms and is accordingly disposed off.

10. All concerned to act on the authenticated copy of this Order.

(SHIVKUMAR DIGE, J.)

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by SONALI
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