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

BAIL APPLICATION NO.531 OF 2023

AJAY @ MOTYA DASHRATH BHOGEKAR ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Prashant Pandey a/w Adv. Ashok Dhanukar a/w Adv. Dinesh Jadhvani a/w Adv. Irfan Unwala a/w Adv. Sohail Khan a/w Adv. Ashish Jain i/b. W3Legal LLP for the applicant.

Ms. Veera Shinde, APP for the State.

API Amol Bhagat, Samta Nagar Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 4, 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, 341, 427, 504, 506(2) of the Indian Penal Code (hereafter 'IPC' for short) registered on 14.12.2021 vide C.R. No.820 of 2021 with Samta Nagar Police Station.
- 3.** The applicant is the accused No.3. The applicant was arrested on 04.02.2022.

4. It is prosecution case that in November 2021, complainant – Sandeep Gujjar was in need of money for his business. So he contacted his friend - Mr. Narsing Vyas for the same. Mr. Vyas agreed to give money to the complainant. He told his friend – Mr. Anilkumar Patel to give Rs.35,00,000/- to the complainant. In order to collect the aforesaid amount, the complainant with his friend – Mr. Pintu Gujjar went to Diamond Market, Malad East, at around 3.00 p.m.. After reaching Diamond Market, the complainant collected Rs.35,00,000/-, kept it in blue carry bag and kept it on the backseat of his car and left at around 5.00 p.m.. At about 5.15 p.m., when the complainant reached a bridge opposite to Times of India, Western Express Highway, Kandivali (East), Mumbai, two unknown persons riding a motorcycle came from the right-hand side of the complainant's car and stopped their bike in front of the complainant's car. Subsequently, two more unknown persons riding another motorcycle came from the left-hand side of the complainant and they stopped their bike in front of the complainant's car. Thereafter, one unknown person

who was standing on the right-hand side of the complainant was holding an iron rod in his hand and he smashed the complainant's vehicle with the said rod and abused and threatened the complainant. The complainant and his friend were scared, due to which, they did not open the car windows. Subsequently another motorcycle came to the said spot on which two more unknown persons were riding. One of them had an iron rod and they came from right-side of the complainant's car and started smashing the window where the cash was kept. They broke the glass and took out the cash and ran away.

5. On the basis of complaint of the complainant, Police registered FIR against six unknown motorcycle riders. During investigation police arrested all six accused. An amount of Rs.11,00,000/- was recovered on the disclosure statement of co-accused - Pankaj under Section 27 of the Indian Evidence Act.

6. The co-accused from whom Rs.30,000 was recovered has been enlarged on bail. The accused- Pankaj Rupnarayan Mishra from whom Rs.11,00,000/- is recovered is enlarged

on bail by order of this Court on 24.08.2023. From the applicant a sum of Rs.23,43,000/- was recovered.

7. Learned APP opposed the application for bail.

8. It is pertinent to refer to paragraph 4 and 6 of the order dated 24.08.2023 passed by this Court in Bail Application No.3661 of 2022 while enlarging the co-accused – Pankaj Mishra on bail. The said paragraphs read thus :-

“4. It is contention of learned APP that the incident had happened on the road in broad daylight. An amount of Rs.11,00,000/- is recovered at the instance of applicant. This is an huge amount. If applicant is released on bail, he may influence prosecution witnesses and he may abscond and trial may be delayed. Though, no objection is given by the complainant, it may not be a ground to grant bail to applicant. Hence, requested to dismiss the application.

6. Admittedly, co-accused from whom the amount of Rs.30,000/- is recovered is released on bail by the trial Court. While committing offence, applicant had not used any weapon to rob the amount. The complainant has filed an affidavit before the trial Court stating that he has no grievance against applicant and he does not wish to continue the prosecution against applicant. As the investigation is completed, the amount robbed from the car of the complainant is recovered, charge-sheet is filed and moreover, the complainant has filed affidavit stating that he has no grievance against applicant and he does not wish to prosecute the case.”

9. Learned APP submitted that there are three criminal antecedents of similar nature against the applicant.

However, in the facts of the present case considering that the applicant was arrested on 04.02.2022 and is now in custody for one year and eight months and as the co-accused having similar role has been enlarged on bail and also considering no objection of the complainant, the applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Ajay @ Motya Dashrath Bhogekar in connection with C.R. No.820 of 2021 registered with Samta Nagar Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.
- (c) Applicant shall attend the concerned police station twice in a month i.e. on first and third Saturday between 11.00 a.m. to 2.00 p.m. till framing of charge.
- (d) 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.

(e) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

10. The application is disposed of.

(M. S. KARNIK, J.)