

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2518 OF 2022

Ajay @ Ajya Rajya Bhosale and ors.

.... Applicants

Versus

The State of Maharashtra

.... Respondent

Mr. Priyal G. Sarda, Advocate for the Applicants.

Ms. Pallavi N. Dabholkar, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th OCTOBER, 2023.

P.C. :

1. By this application, applicants are seeking bail in Crime No.232 of 2019 registered with Karmala Police Station, District Solapur, for offences punishable under Sections 394 and 395 of Indian Penal Code, 1860 and Sections 3(1)(ii), 3(2) and 3(4) of Maharashtra Control of Organised Crime Act, 1999 (for short “the MCOCA”).

2. It is prosecution’s case that on 29th March 2019 at about 4.30 am at about 25 Kms away from Karmala, four persons had thrown stones on the trailer of first informant, hence, first informant

stopped the vehicle. One of the accused had assaulted the first informant with the help of stone on his head and also assaulted the cleaner and helper with fist blows and took away cash and other articles worth Rs.35,000/-. FIR was lodged against four unknown persons. In investigation, police arrested applicants in connection with the said crime.

3. It is the contention of learned counsel for applicants that applicants have been falsely implicated in this case. No incriminating material is produced on record to show the involvement of the applicants in the said crime. In test identification parade, applicant No.1 has not been identified by the first informant and first informant and other witnesses were not available for test identification parade of applicant Nos.2 and 3. There is recovery of Rs.5,200/- from applicant No.1. It is not proved that this amount was robbed amount or not. Applicants are behind bar for more than four years and six months, yet charges have not been framed. Hence, requested to allow the application.

4. It is the contention of learned APP that applicants had robbed the amount from first informant. There is recovery of robbed amount from applicant No.1. Applicants are the members of crime

syndicate. There is prima facie case against the applicants. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

The allegations against the applicants are that they had robbed the first informant. In test identification parade, applicant No.1 is not identified by the first informant and first informant was not available for test identification parade of applicant Nos.2 and 3. Though there is recovery of amount from applicant No.1 but first informant has not identified applicant No.1 in test identification parade. Applicants are behind bar for more than four years, yet charges have not been framed. It may take time to conclude the trial.

6. Considering the above facts, I pass following order :

ORDER

- (i) Applicants be enlarged on bail Crime No.232 of 2019 registered with Karmala Police Station, District Solapur, on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) Applicants shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to

3.00 p.m. till framing of charge.

(iii) Applicants shall inform their 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) Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(v) If any offence is registered against the applicants of similar nature, it would be a ground for cancellation of bail.

7. The application is allowed in the aforesaid terms and is accordingly disposed off.

8. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)