

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

BAIL APPLICATION NO.4130 OF 2021

Rakesh alias Shaligram Gopal Choyal ..Applicant

VS.

The State of Maharashtra ..Respondent

Mr. Ashish Chavan a/w Mr. Jayesh Bhosale and Mr. Manuj Borkar and Zishan Quazi for the Applicant.
Ms. P. N. Dabholkar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 13, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail by the applicant-Rakesh alias Shaligram Gopal Choyal in connection with FIR No.I-62 of 2020 dated 30.01.2020 registered with Narpoli Police Station under Sections 392, 395, 397, 452, 454, 380, 74 read with 34 of the Indian Penal Code, 1860 and under Sections 3 and 25 of the Arms Act and under Sections 37(i) and 135 of Bombay Police Act.

3. It is alleged that the dacoity took place on 30/01/2020

in the house of one Mr. Shubham Jagdish Patil (first informant). There are six accused in all. The applicant is accused No.2. The total amount of gold in respect of which the dacoity is committed is approximately Rs.2,35,00,000/- (581 tolas Gold) + Rs.60,00,000/- (cash). Substantial amount of cash was recovered from accused No.1. There is no recovery from the present applicant. The applicant is implicated on the basis of the statement of accused No.1. The role assigned to the applicant is that he was to keep a watch on the street leading to the informant's house.

4. Learned APP submitted that time may be granted to her as the CCTV footage has to be obtained.

5. I am of the opinion that the CCTV footage will not be useful to further the prosecution case as in any case the role assigned to the applicant is that he was keeping watch outside the house of the informant. Apart from this material against the applicant, it is on the statement of the co-accused that the applicant was keeping a watch and the entire dacoity amount was to be shared between all the accused that the applicant is implicated. There is no

recovery from the applicant. The applicant was arrested on 17/03/2020. The applicant is in custody for almost more than 2 year and 9 months. There are no criminal antecedents reported against the applicant.

6. The investigation is complete and the charge-sheet has been filed. The trial is not likely to conclude any time soon. In these circumstances, prolonging the custody of the applicant would amount to a pre-trial punishment having regard to the role of the applicant. Though the offence alleged is serious, the applicant will undoubtedly face the consequences post trial if the charges against him are proved.

7. Taking an overall view of the matter, the applicant can be enlarged on bail. The applicant is from Madhya Pradesh and therefore some stringent conditions need to be imposed. Hence the following order.

ORDER

(a) Application is allowed.

(b) Applicant-Rakesh alias Shaligram Gopal Choyal shall be released on bail in connection

with FIR No.I-62 of 2020 registered with Narpoli Police Station, on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) 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.

(d) The applicant shall report to the concerned police station, once a month i.e. first Saturday of the month, between 11.00 a.m. and 1.00 p.m. and thereafter, as and when called.

(e) 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.

(f) The applicant shall not leave Thane district without seeking leave of the trial Court.

8. The Bail Application is disposed of.

(M. S. KARNIK, J.)