

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3383 OF 2022

Rakesh Perumal Shettiyar @ Rakesh Parimal ...Applicant
Shetty
V/s.

The State of Maharashtra ... Respondent

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Ms.Mallika Ingale, for the Applicant.
Ms.Anamika Malhotra, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th OCTOBER 2023

P.C:-

. By this Application, Applicant is seeking bail in Crime No.1 of 2022 registered with Kanjurmarg Police Station, Mumbai, for the offence punishable under Sections 399, 402, 353, 307, 332 of the Indian Penal Code ('IPC' for short), Section 4 and 25 of the Arms Act read with Section 37(1)(a) read with Section 135 of the Maharashtra Police Act and Section 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 ("the MCOC Act" for short).

2. It is prosecution's case that, on 2nd January 2022 at around 10.00 p.m. Kanjurmarg Police Station had got information that, habitual offenders namely Mohan @ Mogam Shetty, Shiva Shetty, Sairam Gangipalli, Loknath, Dinesh Yadav Ratan and others had gathered in the vicinity of Karvenagar for preparing to commit dacoity. On the basis of the said information police caught the co-accused from the incident spot along with weapons. It is alleged that co-accused had assaulted the police and attempted to flee from the spot. The name of the Applicant was not mentioned in the FIR. It is alleged that, Applicant was present at the incident spot.

3. It is contention of the learned counsel for the Applicant that, the witnesses who has stated that, the Applicant was present at the incident spot, his statement was recorded after the arrest of the Applicant in connection of this crime. No name of Applicant was mentioned in the FIR. Applicant is behind bar more than 1 year and 7 months. Yet trial has not been started. Hence, requested to allow the Application.

4. It is contention of the learned APP that, Applicant was part of the group, who were preparing for dacoity. Police arrested co-accused from the incident spot. Some of the co-accused assaulted the police party and attempted to flee from the incident spot. There is *prima facie* case against the Applicant. Hence, requested to reject the Application.

5. I have heard both learned counsel. Perused FIR and charge-sheet.

6. The role attributed to the Applicant that, he was present at the incident spot and he tried to assault police party and attempt to flee from incident spot. Admittedly, name of the Applicant was not mentioned in the FIR. The witness Mr.Sanjay Chakor, Police Inspector, has stated that, the Applicant was present at the incident spot, after the arrest of the Applicant. There is no antecedents against the Applicant. Applicant is behind bar more than 1 year and 7 months. Investigation is completed and charge-sheet has been filed. Yet trial has not started it may take time to conclude the trial. No further detention of the Applicant is not required.

7. In view of above, I pass following order.

ORDER

- (i) The Applicant be released on bail in Crime No.1 of 2022 registered with Kanjurmarg Police Station, Mumbai, on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount.
- (ii) After his release from jail the Applicant shall attend the Kanjurmarg Police Station, Mumbai once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (iv) The Trial Court shall decide the case on its own merits and in accordance with law, uninfluenced by the observations made in this order.
- (v) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)