

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3480 OF 2022

Vashiulla Kitabulla Choudhary ... Applicant

V/s.

State of Maharashtra ... Respondent

.....
Mr. Amit Munde a/w. Mr. Parikshit Pawar, Advocate for Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.
.....

CORAM : SHIVKUMAR DIGE, J.

DATE : 25th SEPTEMBER 2023

P. C:-

1. By this Application, Applicant is seeking bail in C.R.No. 35 of 2022 registered with Mulund Police Station for the offence punishable under Sections 395, 397, 201 of Indian Penal Code, 1860 (for short "IPC") and under Sections 3 and 25 of Arms Act and under Section 37(1) of Maharashtra Police Act.
2. It is the prosecution's case that on 02.02.2022 at about 3.15 p.m. 4 persons forcibly entered in the office of first informant. 5th person kept watch out of the office. 4 persons who entered in the office of the first informant, on the gun point robbed the first

informant and his colleagues. They took out Rs.70 lakhs kept in cash drawer of the office and fled away. In investigation, police arrested co-accused and Applicant in connection of present crime. It is alleged that Applicant was present at the time of committing dacoity and one pistol was recovered at the instance of Applicant.

3. It is the contention of learned Counsel for the Applicant that, test identification parade of Applicant was taken. No witness identified the Applicant in test identification parade. There is no recovery of amount at the instance of Applicant. Applicant is behind the bar more than one year and 5 months. Proposal for applying provisions of MCOC against Applicant is refused by the concerned Authority, hence requested to allow the Application.

4. Learned APP submitted that, Applicant has antecedents. A pistol, live cartridges were recovered at the instance of Applicant. Applicant was the part of group who committed dacoity on the first informant's shop. If Applicant is released on bail he may threaten prosecution witnesses. Hence, requested to reject the Application.

5. I have heard both the learned Counsel. Perused the FIR and charge-sheet. It appears from the record that the robbed amount is recovered at the instance of co-accused. There is no recovery of amount at the instance of Applicant. Applicant has not been

identified in test identification parade by the witnesses. One co-accused has been released on bail from whom there was no recovery of amount. Applicant is behind the bar more than one year 5 months. Considering the above facts, I am inclined to allow the Application.

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

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 35 of 2022 registered with Mulund Police Station on executing P.R.Bond in the sum of Rs.25,000/- with one or two 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.
- (v) The Trial Court shall decide the said case on its own merits, in accordance with law uninfluenced by the observations made in this order.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2023.09.27
14:43:57
+0530