

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3847 of 2022

Barkatali Niwasali Choudhary

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Ms. Farhana Shah, Advocate for the Applicant.

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

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.I-249 of 2022 registered with Shahapur Police Station for offences punishable under Sections 395, 365 and 412 of Indian Penal Code, 1860.

2. It is prosecution's case that in the intervening night of 11th June 2022 and 12th June 2022, when the trailer of the informant loaded with steel bars worth Rs.15,81,926/- was proceeding towards its destination, co-accused hatched conspiracy to commit dacoity and accordingly, they intercepted the trailer and then these accused entered in the cabin of the trailer, assaulted its driver and by tying hands and covering his eyes with a cloth, left him on road and they took the trailer

with them along with the loaded steel bars and as such, they committed dacoity. The allegations against applicant are that, he himself and co-accused Sartajali Mohammed Siddiq have purchased the looted steel bars and during investigation, it revealed that the applicant sold the steel bars to another accused and the sale proceeds of Rs.14,00,000/- has been recovered from the applicant.

3. It is the contention of learned counsel for applicant that applicant has not committed any offence. Applicant is a scrap dealer. He had purchased steel bars from accused. He was not aware that accused had stolen the steel bars. The sale proceeds of the said steel bars have been recovered at the instance of applicant. Applicant is behind the bar for more than 1 ½ years. Investigation is completed, charge-sheet has been filed. Accused Nos. 4 and 6 who have committed dacoity have been released on bail. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant had purchased the stolen steel bars, he was aware that the steel bars were stolen by accused. There is involvement of the applicant in the said crime. There is prima facie case against the applicant. Hence, requested to reject the application.

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

6. The allegations against the applicant are that he has purchased stolen steel bars. Applicant was not involved in the incident of dacoity. Accused Nos.4 and 6 who had committed dacoity have been released on bail. Sale proceeds of the stolen steel bars is recovered at the instance of applicant. Applicant is behind bar for more than 1 ½ year. Investigation is completed and charge-sheet has been filed.

7. Considering the above facts, applicant's further detention is not required, hence I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No.I-249 of 2022 registered with Shahapur 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 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.

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

9. 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.

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

(SHIVKUMAR DIGE, J.)