

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2177 OF 2023

Dilip Shivshankar Singh

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Prashant Pandey a/w. Mr. Ashok Dhanuka, Mr. Dinesh Jadhvani, Mr. Irfan Unwala i/b. W3Legal LLP, for the Applicant.
Mr. S.R. Agarkar, APP, for the Respondent/State.
Mr. Dnyaneshwar Ladse, PSI, Mulund police station.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 02, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. The applicant who has been arraigned for the offences punishable under sections 120-B, 395, 397, 201 and 341 of Indian Penal Code, 1860 in C.R. No. 35 of 2022 registered with Mulund police station, seeks to be enlarged on bail.
3. The gravamen of indictment against the applicant is that on 2nd February, 2022 while the first informant was in his office at Room No. 8, Edenwala CHS, P.K.Road, Mulund (w) four unknown persons barged into his office. They were armed with firearm. Those persons threatened the first informant and his employees on the point of gun. Two of the alleged robbers collected the cash amount from the drawer and thereafter the robbers fled away. The first

informant initially alleged that he was robbed of a sum of Rs. 70 lakhs. Later on it was stated that the amount of which the first informant was robbed of was Rs. 48 lakhs.

4. The learned counsel for the applicant submitted that the co-accused Manoj Kalan and Bharat Gaikwad have been released on bail by this Court by orders dated 5th October, 2023 and 13th September, 2023, respectively. The applicant is similarly circumstanced as Manoj Kalan who was allegedly waiting outside the premises where the robbery was conducted. The robbers allegedly fled in the car of co-accused Manoj. The learned counsel for the applicant further submitted that apart from the recovery of the cash amount and the pistol at the instance of the applicant, and the alleged identification of the applicant in the TI parade, there is no material to connect the applicant with the crime. Emphasis was laid on the fact that prima facie there is no material to establish the presence of the applicant at the scene of occurrence, where the robbery was allegedly committed. It was submitted that the TI parade is vulnerable as it was held after about three months of the alleged occurrence.

5. The learned APP resisted the prayer for bail. It was submitted that there is recovery of the amount and pistol pursuant to the discovery made by the applicant. Moreover, the applicant was

identified in the TI parade. In addition, there are two antecedents of the applicant. Therefore, the applicant does not deserve exercise of discretion.

6. Evidently, the robbery was committed by four unknown persons. Though the applicant was allegedly identified in the TI parade, it does not appear that the witnesses had identified the applicant with reference to role allegedly played by the applicant in the alleged robbery. Recovery of pistol at the instance of the applicant prima facie does not appear to be of incriminating tendency as the pistols have been allegedly recovered at the instance of eight of the accused. In the circumstances, the fact that the co-accused against whom the accusations are more or less identical, has been released on bail, entitles the applicant to claim parity. The applicant has been in custody for more than one year and ten months. Investigation is complete for all intent and purpose. Charge sheet has been lodged.

7. In the circumstances of the case, the antecedents of the applicant do not seem to be of such nature as to dis-entitle the applicant from the exercise of the discretion. I am, therefore, impelled to allow the application.

Hence, the following order.

ORDER

- 1] The application is allowed.
- 2] The applicant shall be released on bail in C.R. No. 35 of 2022 registered with Mulund police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.
- 3] The applicant shall mark his presence at Mulund police station on the first Monday of every alternate month in between 11 am to 1 pm till framing of charge.
- 4] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.
- 5] 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.
- 6] The applicant shall not leave the jurisdiction of Mumbai and Thane districts without permission of the trial Court.
- 7] The applicant shall regularly attend the proceedings before the jurisdictional Court.
- 8] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of

the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

(N. J. JAMADAR, J.)