

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2516 OF 2023

SANTOSH
SUBHASH
KULKARNI

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SANTOSH SUBHASH
KULKARNI
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1. Vitthal Vasant Jabar
2. Santosh Mahadu Bhoir
...Applicants
Versus
The State of Maharashtra
...Respondent

Mr. Aamir Shaikh, for the Applicant.
Ms. Ranjana Humane, APP for the State/Respondent No.1.
Mr. Ajit Sabale, API, Wada Police Station, Palghar, present.

CORAM: N. J. JAMADAR, J.
DATED: 18th APRIL, 2024

PC:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.
2. This is an application for bail in CR No.7 of 2017 registered with Wada Police Station, Palghar, for the offences punishable under Sections 395, 396 and 452 of the Indian Penal Code, 1860 ("the Penal Code"), Section 27 read with Section 3 of the Arms Act, 1959 and Section 135 read with Section 37(1) of the Maharashtra Police Act, 1951.
3. The gravamen of indictment against the applicants and the co-accused is that on 12th January, 2017 at 4.00 p.m. there was a dacoity at the farmhouse of the first informant.

Seven to eight unknown dacoits armed with deadly weapons like sword and iron rod committed housebreaking by night. They robbed the first informant and his family members of cash amount and ornaments. Nephew of the first informant Hitesh was assaulted by means of deadly weapons. The learned Counsel for the applicants submitted that the applicants were not named in the FIR. There is no material to establish the identity of the applicants as the dacoits. Nothing has been recovered pursuant to the discovery made by any of the applicants. The co-accused have already been released on bail. As the applicants had allegedly absconded, they came to be arrested on 27th July, 2022. In fact, the applicants were unaware of their implication in the instant crime.

4. The learned APP submitted that the applicants were the members of the gang of dacoit which had committed dacoity at the house of the first informant. It was, however, fairly submitted that nothing has been recovered at the instance of the applicants. Nor the applicants were identified in the TI Parade, which was conducted after the arrest of the applicants.

5. In the aforesaid view of the matter, at this stage, there appears to be no *prima facie* material to connect the applicants with the alleged offences. The co-accused have been released on bail. The court is informed that Sessions Case No.204 of 2007 is still pending before the Court of Session. Few witnesses have been examined. In the circumstances, having regard to the nature of the material pressed into service against the applicants, further detention of the applicants appears unwarranted.

6. Since the applicants had allegedly absconded, I deem it appropriate to impose stringent conditions while releasing the applicants on bail.

7. Hence the following order:

: O R D E R :

(i) Application stands allowed.

(ii) The applicants, Vitthal Vasant Jabar and Santosh Mahadu Bhoir be released on bail CR No.7 of 2017 registered with Wada Police Station, Palghar, on furnishing a P.R. Bond in the sum of Rs.50,000/-, each, with one or two sureties in the like amount.

(iii) The applicants shall mark their presence at the Wada Police Station between 10.00 am. to 12.00 noon till

conclusion of the trial.

(iv) The applicants shall not tamper with the prosecution evidence. The applicants 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.

(v) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicants shall regularly attend the proceedings before the jurisdictional Court.

(vii) 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.

Application disposed.

[N. J. JAMADAR, J.]