



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3853 OF 2023

1] SURAJ KASHINATH DAYRE
2] KAILAS VITHU HISALGE ..APPLICANTS
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Nitin H. Sejpal a/w Adv. Pooja N. Sejpal a/w Adv.
Akshata Desai a/w Adv. Siddharth Gharat for the Applicants.
Mr. S.A. Karmakar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 21, 2024

P.C. :

- 1.** Heard learned counsel for the applicants and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 395, 397, 347 and 412 of the Indian Penal Code ("IPC" for short), Sections 4, 25 of the Arms Act and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999, ("MCOCA" for short) registered on 29/12/2015 vide C.R. No.242 of 2015 with Pen Police Station, Raigad.
- 3.** The prosecution's case is that on 29/12/2015 at about 2.15 p.m., the informant Gopalkrishna Gupta, working as

Deputy Branch Manager in Bank of Maharashtra, Branch-Varasai, Taluka- Pen, District- Raigad, along with one bank peon namely Sandip Khot were going from Bank of Maharashtra, Pen Branch to Varasai Branch in Minidoor Rickshaw with one suitcase containing Rs.25,00,000/-. Three unknown persons came on two motorcycles and threatened the complainant with the help of country-made pistol and knife. They robbed the amount of Rs.25,00,000/-, three mobile phones. They made good the escape by taking away the key of Minidoor Rickshaw. The present offence came to be registered. An amount of Rs.3,00,000/- came to the share of the applicant No.1 – Suraj, out of which Rs.1,84,500/- has been recovered. As far as the applicant No.2 - Kailas is concerned, it is alleged that an amount of Rs.1,00,000/- came to his share.

4. Learned APP vehemently opposed the application. My attention is invited to the affidavit filed by Mr. Shivaji Dnyandeo Phadtare, Sub Divisional Police Officer, Sub Division Pen, District - Raigad, on behalf of the prosecution. It is submitted that the applicants were part of an organised

crime syndicate which committed serious offences. It is submitted that there are as many as 3 other offences registered against the applicant No.1 - Suraj. The first offence is registered vide C.R. No. 1135 of 2012 with Padgha Police Station under Sections 395, 341, 342 and 323 of the IPC. The second offence is registered vide C.R. No. 13 of 2014 with Neral Police Station under Sections 376, 363 and 366(a) of the IPC. The third offence is registered vide C.R. No. 69 of 2015 with Kulgaon Police Station under Sections 394 and 34 of the IPC and Sections 4 and 25 of the Arms Act. The present is the fourth offence. As far as the other applicant No.2 - Kailas is concerned, according to the learned counsel for the applicants, there are 2 criminal cases registered against him. It is submitted that the applicants should not be enlarged on bail as they were actively involved in the commission of the offence. It is further submitted that at the highest the trial be expedited if it is the contention of the learned counsel for the applicants that the applicants have been incarcerated for a long period.

5. The applicants- Suraj and Kailas are accused No. 9 and

11 respectively. The gang leader has been enlarged on bail. All the other co-accused have been enlarged on bail. The date of the incident is 29/12/2015. The applicants were arrested on 01/02/2016 and is in custody for more than 8 years. So far as the trial is concerned, the prosecution proposes to examine around 100 witnesses and it is submitted that presently PW-1 is in the witness box. Considering the long incarceration of the applicants as undertrials with no possibility of the trial concluding anytime soon, I am inclined to enlarge the applicants on bail by imposing certain conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicants- Suraj Kashinath Dayre and Kailas Vithu Hisalge in connection with C.R. No.242 of 2015 registered with Pen Police Station shall be released on bail on their furnishing P.R. Bond of Rs.50,000/- each with one or more solvent sureties each in the like amount.
- (c) Except for attending the trial in the present case as well as in other cases and for reporting to the Investigating Officer, the applicants shall not enter

Raigad district after being released on bail, till the trial concludes.

(d) The applicants shall attend the Investigating Officer of Pen police station once in a month, on the first Monday of every month, between 11.00 a.m. and 1.00 p.m.

(e) 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. The applicants shall not tamper with evidence.

(f) On being released on bail, the applicants shall furnish their contact numbers and residential addresses, while residing outside Raigad district, to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicants shall attend the trial regularly. The applicants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicants shall surrender their passports to the investigating officer. If the applicants do not have the passports, the applicants shall file an affidavit before the trial Court to that effect.

6. The application is disposed of.

(M. S. KARNIK, J.)