

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

CRIMINAL REVISION APPLICATION NO.172 OF 2024

Arbaaz Sameer Khan

...Applicant

vs.

The State of Maharashtra

...Respondents

Mr.Vikas Shivarkar:-	Advocate for Applicant.
Ms.Sangita E. Phad:-	APP for Respondent-State.

CORAM : S. M. MODAK, J.

DATE : 30th AUGUST 2024

P. C. :-

1. Heard learned Advocate Shri.Shivarkar for the Applicant and learned APP Ms.Phad.
2. The Police of Khadaki Police Station charge sheeted the present Applicant along with 5 others for making a preparation to commit a dacoity and for assembling together to commit dacoity. After getting information, they found, certain persons have assembled near Trikon Garden, Nehru Road, Khadaki. When the raiding party went there, they found 5 to 6 persons sat together and discussing amongst

themselves. They got clue about arrival of Police. Three persons ran away. It was about 22.45 hours at the midnight. Three persons were caught. The Applicant is one amongst them. The offence came to be registered and charge-sheet is filed for the offences under Sections 399, 402 read with 34 of the Indian Penal Code, 1860 ("IPC") and under Section 4 read with 25 of the Arms Act, 1959 and under Section 37(1) read with 135 Maharashtra Police Act, 1951.

3. They applied for discharge. It was rejected by the trial Court on 1st January 2019. Even, they have filed a Writ Petition, however, it was withdrawn and liberty was granted.

4. Mr.Shivarkar made following two submissions:-

- (a) Even though, certain articles are seized, the papers do not reveal from whom, they are seized including the present Applicant.
- (b) At the most, it can be said that they have assembled but there is no material to point out the place wherein they have planned to commit a dacoity.

5. According to learned APP, these issues cannot be decided at the time of framing of charge but evidence has to be adduced. According to her, what is important is preparation to commit a dacoity.

6. At the time of framing of charge, a Court has to see, whether

there is a strong suspicion and ingredients of the offences are made out or not. I think, these contentions can be gone into at the time of final appreciation. Considering the fact that they were found at odd hours of the night at unknown place, is sufficient to frame a charge. The place for dacoity will be relevant not for such offence. An emphasis is on preparation and gathering. The materials are sufficient to charge them under those Sections. The grounds taken today, can be taken at the time of evidence. Hence, I find no merit in this Revision. **Consequently, it is dismissed.**

7. These are my *prima facie* observations. The trial Court to decide the case as per the evidence adduced.

[S. M. MODAK, J.]