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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1095 OF 2025

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*Naresh Jivaraj Rathod and Chhagan
Laxman Gaikwad*

... Applicants

V/s.

The State of Maharashtra

... Respondent

Mr. Santosh M. Deshpande for the applicant.

Ms. Rajashree V. Newton, APP for the State.

Mr. Santosh Khandekar, PI, Kashigaon Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 21, 2025

P.C.:

1. The present application is filed by the applicants under Section 439 of the Code of Criminal Procedure, 1973, seeking their release on regular bail in connection with Crime No.497 of 2023 registered with Malad Police Station. The applicants are facing prosecution for offences punishable under Sections 395, 394, 120-B, 412, and 34 of the Indian Penal Code, 1860, and also under Sections 37(1)(a), 135, and 142 of the Maharashtra Police Act.

2. The prosecution case, in brief, is that the informant lodged a report alleging that on 28th August 2023 at about 8:15 p.m., near Nilanjana Apartment, Nutan High School, Marve Road, Malad (West), Mumbai, certain unknown persons, in furtherance of a

criminal conspiracy, committed an act of dacoity by voluntarily causing hurt with the use of a knife, and snatched two bags containing ₹75 lakhs in cash. Subsequently, during investigation and after recording the informant's supplementary statement, it was revealed that the actual amount robbed was ₹1 crore 25 lakhs. The investigation further revealed that the said offence was committed in breach of externment and arms prohibition orders and was the result of a well-planned conspiracy amongst several accused persons. It also came to light during the course of investigation that some of the accused persons, who were not directly involved in the act of robbery, had dishonestly received a part of the stolen cash. Upon completion of investigation, a charge-sheet has been filed against the applicants and other accused.

3. Learned counsel appearing for the applicants has drawn attention of this Court to the contents of the First Information Report, statements of witnesses, and other material placed on record. It is submitted that there is no material on record which indicates that the present applicants were present at the spot at the time of the incident. It is further submitted that two co-accused, namely Vinod and Kunal, who were riding a motorcycle, have been identified by the victim as the persons who committed the dacoity. The role attributed to Kunal is that he used a knife to threaten the victim and forcibly snatched the cash. Both these persons have been specifically identified by the victim. However, the only ground on which the applicants have been arraigned as accused is that the motorcycle allegedly used in the crime was recovered from applicant No.1, and applicant No.2 was found to be in

company of the co-accused at a later point of time. It is pointed out that the applicants were arrested on 3rd September 2023, and the charge is yet to be framed. The prosecution has cited as many as 68 witnesses, and therefore, it is unlikely that the trial will conclude in the near future. In these circumstances, it is prayed that the applicants may be released on regular bail.

4. On the other hand, the learned APP has opposed the bail application and contended that sufficient material is available on record to show the involvement of the applicants in the crime. It is submitted that the Call Detail Records (CDRs) clearly establish the presence of the applicants near the place of offence at the relevant time. It is further submitted that the applicants were in close contact with accused Nos.1 and 2, who were the main assailants and actually committed the act of dacoity. Considering the seriousness of the offence and the material available during investigation, it is submitted that the applicants do not deserve to be enlarged on bail.

5. I have carefully considered the submissions advanced by the learned counsel for the applicants and the learned APP for the State. I have also gone through the case papers and material placed on record, including the FIR, statements of witnesses, recovery panchnamas, and other documents.

6. From the material placed before this Court, it is evident that the role attributed to the applicants is not of direct participation in the act of dacoity. The victim has identified only two persons, namely Vinod and Kunal, as the actual assailants who committed

the dacoity by threatening and causing hurt with a knife. The applicants have not been identified by the informant or any eyewitness as being present at the spot at the time of the incident.

7. It is also to be noted that the principal ground for implicating applicant No.1 is the recovery of the motorcycle allegedly used in the commission of offence, and in the case of applicant No.2, his association with co-accused persons is relied upon. While such circumstances may raise suspicion, at this stage, there is no direct or cogent material to prima facie indicate their active participation in the offence or that they shared a common intention with the main accused persons at the time of commission of dacoity.

8. It is also pertinent to note that the applicants have been in custody since 3rd September 2023. The investigation is complete and the charge-sheet has been filed. There are as many as 68 witnesses cited by the prosecution, and it is unlikely that the trial will conclude in the near future. The applicants have no serious criminal antecedents brought to the notice of this Court. Therefore, further incarceration of the applicants during pendency of trial would not serve any useful purpose.

9. It is well settled that the object of bail is to secure the presence of the accused at the trial and not to detain them as a measure of punishment. Having regard to the totality of circumstances, including the nature of allegations, the role attributed to the applicants, the period of custody undergone, and the stage of trial, I am of the considered opinion that the applicants deserve to be enlarged on bail, subject to suitable

conditions.

10. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicants are directed to be released on regular bail in connection with Crime No.497 of 2023 registered with Malad Police Station for offences punishable under Sections 395, 394, 120(b), 412 and 34 of the Indian Penal Code, 1860; and Sections 37(1)(a), 135, 142 of the Maharashtra Police Act, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) (each) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
 - a) The applicants shall report the Malad Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
 - b) The applicants shall not tamper with the evidence or attempt to influence any witness.
 - c) The applicants shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - d) The applicants shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - e) The applicants shall not indulge in any criminal activity during the pendency of the trial.

f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

4. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 14th August 2025 to correct cause-title.