

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPEALATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No.560 of 2015.

Sachin Asaram Shahane

..Applicant.

Vs

The State of Maharashtra

..Respondent.

Mr Sachin Deokar i/by Mr R.D. Suryawanshi, Adv. for the Applicant.

Mr Arfan Sait, APP for the State.

Mr M.B. Rokade, API, Nasik Road, P.S. present in the Court.

CORAM : A.R.JOSHI,J

DATE : 5th May, 2015

P.C. :

1) Heard rival submissions at length on this anticipatory bail application preferred by the applicant-original accused No.4 in the matter of offences punishable under Sections 392, 201, 411 read with section 34 of I.P.C. in C.R.No. 283 of 2014.

2) The First Information Report (FIR) was lodged by one woman on 14th November, 2014 at 5:30 p.m. mentioning that two unknown persons came on one pulsar motorcycle and the pillion rider snatched the gold chain / Mangalsutra, she was wearing at the relevant time. According to the first informant woman, that time she could not see the said persons and also the said motorcycle was not having any registration number.

Subsequently, supplementary statement of the first informant was recorded on 23rd December, 2014 in which she gave details as to how the police investigation proceeded and how she knew the names of the accused persons and also the co-accused including the present applicant. In fact, this further statement reveal that she knew this information from investigation papers in the police station and not from her own knowledge. According to this further statement and according to the case of the prosecution, original accused nos. 1 and 2 were the persons who came on the pulsar motorcycle and the gold chain / Mangalsutra was snatched from the complainant. Further, according to the case of the prosecution, the present applicant accused No.4 is one of the co-conspirators. Definitely, it is not a case of the prosecution that the present applicant was present at the scene of offence when the chain was snatched. According to the case of the prosecution, the statement of the brother of the present applicant revealed that the pulsar motorcycle which was subsequently seized at the instance of the one of the co-accused, belonged to the present applicant. According to the statement of the brother of the applicant, it is also revealed that the applicant is a habitual offender indulging in the activities of chain snatching in association with the accused Nos. 1 and 2. Apart from the said statement of the brother of this present applicant, there is nothing on record to

show that the pulsar motorcycle which was recovered at the instance of the co-accused, actually belonged to the present applicant. On this aspect, attention of this Court is drawn towards the letter written by the Investigating Agency to the concerned RTO asking for the information as to the registered owner. This letter is written in the month of November, 2014 but till date there is no reply from the RTO authorities as told by the Investigating Officer who is present in the Court. The fact remains that till date there is no authentic document to show that the pulsar motorcycle which was recovered at the instance of the co-accused actually belonged to the present applicant.

3) Apart from the above, another circumstance against the present applicant, according to the case of the prosecution is recovery of gold slab weighing about three Tolas from the house of the present applicant. The said recovery was at the instance of the wife of the present applicant and apparently that time the present applicant was absconding and not available. According to the case of the prosecution, that was the same gold slab which was converted by way of melting the gold chain / Mangalsutra snatched from the complainant.

4) Lastly, it is argued that there are criminal antecedents against the present applicant. In support of this, it is mentioned that CR No. 290 of 2014 registered on 14.11.2014 is the case

against the present applicant and which is for the offence punishable under Section 392 read with section 34 of IPC. After going through the said copy of the FIR which is at page 22, it appears that it is against two unknown persons. As such, in the opinion of this Court, the material relied upon by the prosecution at least at this stage do not show the involvement of the present applicant so as to deny him the anticipatory bail. In the result, the present application is allowed as under :-

ORDER :

- (i) In the event of arrest of the present applicant, he shall be released on bail on executing a P.R. bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
 - (ii) Needless to mention that the observations in the present order are not to be taken by the trial Court at the time of final adjudication of the criminal case against the present applicant and the co-accused;
 - (iii) In the event of availing of the above anticipatory bail, the applicant shall attend the concerned police station on every Monday between 10:00 a.m. to 12:00 noon for the period of six months from the date of this order;
 - (iv) The bail before the Sessions Court;
- Application is disposed of accordingly.

(A.R.JOSHI, J.)