

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

929 CRIMINAL APPLICATION NO. 4439 OF 2016

SATISH S/O GORAKSHANATH NAGARE

VERSUS

THE STATE OF MAHARASHTRA & ANR.

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Mr. P.R.Patil, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 19th AUGUST, 2016

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PER COURT :

1. The applicant/accused in Crime No. 64/2016 registered at City police station, Shrirampur, Dist. Ahmednagar for the offences punishable U/ss 394,302,411 of the Indian Penal Code, by this application is praying for pre-arrest bail.

2. Heard learned counsel for the applicant. He argued that the role attributed to the present applicant in the crime in question is that of a receiver of stolen property. Learned counsel further argued that the property allegedly stolen by the main accused was sold out to 2 different persons.

Another person is made as witness, whereas the present applicant is arrayed as an accused.

3. Learned A.P.P. opposed the application by contending that knowing fully well that the property in question is the property involved in the serious offence, the applicant has purchased the same from the accused and, therefore, for effecting recovery, custodial interrogation of the present applicant is warranted.

4. Perused papers of investigation. According to the prosecution case, on 08/03/2016 there was robbery at the house of the informant Raghunath Nadgauda. During the course of that robbery, accused persons killed his wife Rohini and robbed ornaments and valuable costing ₹ 95,200/-.

5. So far as the present applicant is concerned, the prosecution is relying on the confession of main accused Sanjay Kapade. The prosecution is also relying on the statement of Neeta, who is wife of accused Sanjay Kapade.

6. Papers of investigation also reveals that some of the stolen property was sold out to Sachin Ahirrao. He is shown as witness.

7. It appears that the present applicant is not having any criminal antecedent. Learned A.P.P., during the course of arguments, submitted that the present applicant is the President of Association of Goldsmiths. The material against

him is the confessional statement of the main accused made before the police officer. As such, no weight can be given to the same to infer that the applicant had purchased the ornaments knowingly. The offence which can be made out against the present applicant is the one which will be punishable u/s 411 of the Indian Penal Code, for which punishment prescribed is 3 years of rigorous imprisonment.

8. In that view of the matter, custodial interrogation of the present applicant is not warranted and his liberty needs to be protected. As such, the following order.

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 64/2016 registered at City police station, Shrirampur, Dist. Ahmednagar for the offences punishable U/ss 394,302,411 of the Indian Penal Code, applicant Satish s/o Gorakshanath Nagare be released on bail on executing P.R.Bond of Rs. 10,000/- [Rupees Ten Thousand] and on furnishing surety in the like amount.
- (iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

- (iv) The applicant shall not tamper the evidence of the prosecution.
- (v) The applicant to attend concerned police station on 30/08/2016, 06/09/2016 and 13/09/2016 between 11.00 a.m. and 1.00 p.m. and he should co-operate the Investigating Officer in the investigation of the crime in question.

[A.M.BADAR, J.]