

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

CRIMINAL BAIL APPLICATION NO.1989 OF 2016

Abhay Ramesh Kulthe

.... Applicant

versus

State of Maharashtra

... Respondent

.....

Mr.S.P. Kadam Advocate i/b. Vivek V. Salunke, Advocate for the Applicant.

Ms.Sharmila S. Kaushik, APP for the State/Respondent.

API – Mr.Sampat N. Pawar, Crime Branch, Pune.

**CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 24th FEBRUARY, 2017.**

P.C. :

1. The applicant/accused is prosecuted under sections 411, 412 of the Indian Penal Code in C.R. No.61 of 2014 registered with Sangvi Police Station, in which the co-accused are facing charges under section 395 of the Indian Penal Code alongwith section 3(1)(ii), 3(4) of the Maharashtra Control of Organised Crime Act. The offence is registered at the instance

of one Razia Hussain Patel that on 25/02/2014, in the afternoon, when she was proceeding on foot towards her house, at Rahatni, Pune, two motor cyclists came near her and the pillion rider snatched her Mangalsutra and one necklace and they hurriedly went away. The lady shouted for help and thereafter, she went to Police Station and her complaint was registered against unknown persons. It is the case of the prosecution that the co-accused Mustafa Irani and other persons were arrested in various cases as there were nearly 155 instances of chain snatching in that area. The applicant/accused is involved in 12 crimes with the allegations that he is a jeweller and he had received the stolen property time to time from the co-accused. It is the case of the prosecution that the applicant/accused has received the gold necklace and Mangalsutra of Razia Hussain Shaikh from the co-accused. Hence, the applicant/accused who was already in jail for similar cases, was shown arrested on 29/05/2014. Hence, this Bail Application.

2. The learned Counsel for the applicant/accused

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submitted that the applicant/accused is innocent though as per the affidavit filed by the Investigating Officer, his alleged involvement is shown in 12 crimes, only 5 cases are registered against him and he is out on bail in 3 cases. He submitted that the applicant/accused has not committed any substantive offence of robbery, but he is alleged to be receiver of stolen property i.e., Mangalsutra and gold necklace from one of the co-accused. He submitted that it is not the applicant/accused, who has purchased the stolen property, but there is another accused Vijay Dedgaonkar, the co-accused who is also a jeweller and alleged to have received stolen property. He pointed out the panchanama dated 10/05/2014 drawn under section 27 of the Evidence Act at the instance of the co-accused Mustafa Irani. However, in the said panchanama, name of other jeweller i.e., Vijay Dedgaonkar is mentioned and the prosecution has changed stand thereafter by falsely implicating the applicant/accused in the present case. The learned Counsel submitted that the applicant/accused will not jump the bail, if he is released on bail.

3. The learned Prosecutor while opposing the Bail Application, has argued that the applicant/accused has committed offence, when he was on bail. There are five cases pending against him and in the present case, MCOC Act is applied against him and the co-accused is found to be a member of the Syndicate.
4. The learned counsel for the applicant/accused submitted that the applicant/accused is not involved in MCOC activities, but he was prosecuted under section 411 of IPC. He is in prison since 24/12/2015 and therefore he be granted bail.
5. The learned prosecutor opposed the bail application and submitted that the applicant/accused is a habitual offender and 12 cases are registered against him under section 411 of IPC alongwith syndicate one Mustaffa Fatte Irani, wherein the members of syndicate are prosecuted under sections 392 and 395 of IPC. The learned prosecutor submitted that the members of syndicate are chain snatchers and they handed over chains/ Mangalsutra to the applicant/accused, who was the receiver of

the stolen property. She further submitted that till today 155 cases are registered in the name of syndicate Mustafa Irani.

6. Perused the FIR. Perused the statements of witnesses.

It appears that the members of the syndicate of Mustafa Irani were arrested on 16/07/2015. The applicant/accused was earlier arrested in 3 cases i.e. in C.R.No.265/13 of Chinchwad Police Station dated 29/05/2014 and thereafter he was transferred in C.R.No.263/13 of Chinchwad Police Station and also of Nigadi Police Station in C.R.No.259/13 and he was granted bail in all three cases and so he was released on bail on 05/08/2014. The present offence wherein gold Mangalsutra and gold necklace was snatched from the person of complainant Razia Husain Shaikh, was committed on 25/02/2014 of Sangvi Police Station and thus the said offence was committed six months prior to 05/08/2014 i.e. the date on which he was bailed out. It appears from the chart supplied by the Investigating Officer that nearly in 8 Crimes of Sangvi, Kothrud, Chatushrungi and Deccan Police Station the police did not

arrest applicant/accused. In view of this the application is allowed and the applicant/accused is granted bail on the following terms and conditions :

ORDER

- (i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/- with one or two solvent sureties in the like amount.
- (ii) The applicant/accused shall attend the all the Court dates.
- (iii) The applicant/accused shall not commit any offence, especially of the similar nature under section 411 and 412 of IPC.
- (iv) The applicant/accused shall not have any association with any syndicate.
- (v) The applicant/accused shall take permission of the Court before leaving India, if at all, he wants to leave India.

7. The application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)