

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

CRIMINAL BAIL APPLICATION NO.1048 OF 2019

Yogesh Jalindhar Alhat

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Ms.Shubhangi Parulekar, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th OCTOBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.466/17 registered with Khadak Police Station, Pune, under sections 394 r/w 34 of the Indian Penal Code. The charge-sheet is filed u/s 397 of IPC as well. Investigation is over. The Applicant was arrested on 28/11/2017 and since then he is in custody.

2. The Applicant had earlier approached this Court vide Bail Application No.919/2018. The application was allowed to

be withdrawn by an order dated 02/08/2018. Thereafter his co-accused Suraj @ Shilya Ashok Mhaske was granted bail by this Court (Coram : A.S. Gadkari, J.) vide an order dated 03/12/2018 in Bail Application No.2436/18. Learned Counsel for the Applicant therefore submits that the present application is filed in the changed circumstances and on the earlier occasion, his application was withdrawn. Since there is subsequent change of circumstances and since the Applicant is claiming parity, I am inclined to entertain this application.

3. The FIR is lodged by one Yogesh Lalchandra Oswal. He has stated in his FIR that he was having a shop where he sold mobile phones vouchers. On 24/11/2017 after 11 p.m. he collected Rs.30,000/-. It was his income for the day. He kept it in a hand bag and he started going towards his house on his two wheeler. He came near his house. He waited for the watchman to open the gate. At that time, one unknown person gave blow of iron rod on his head and the second one threw chilly powder in his eyes. Both these persons snatched away his bag. The

watchman came out and took the first informant to Jehangir Hospital. Thereafter this FIR was lodged.

4. The informant thereafter gave his supplementary statement on 01/12/2017 and at that time he informed that there was one more person and in all he had seen three persons.
5. The Applicant was arrested on 18/11/2017 and since then he is in jail. After completion of the investigation charge-sheet is filed.
6. Heard learned Counsel Ms.Shubhangi Parulekar for the Applicant and learned APP Ms.A.A. Takalkar for the State.
7. Learned Counsel for the Applicant submitted that there is hardly any evidence against the present Applicant. He was not put in test identification parade. The only evidence against his is in the form of recovery of Rs.2,400/- at his instance from his house.

8. Learned APP opposed this bail application and relied on the statement of one Nitin @ Hanya Ashok Sakat, who was friend of the Applicant. This witness has stated as to how conspiracy was hatched to commit robbery. He has stated that the accused Pradip and present Applicant were planning to commit robbery. He therefore submitted that there is sufficient evidence against the Applicant.

9. I have considered these submissions. As mentioned earlier, the co-accused Suraj is released on bail pursuant to the order passed by this Court. This Court (Coram 03/12/2018 in Bail Application No.2436/18 (Coram : A.S. Gadkari, J.) had observed that Rs.3,200/- at the instance of co-accused Suraj was not incriminating. The witness Nitin has described the role of this co-accused Suraj in the same fashion as the role of the present Applicant. Therefore ground of parity is available to the Applicant. Even in this case there is hardly any connection except for recovery of Rs.2,400/- at his instance. There is no

other incriminating piece of evidence against the Applicant. Considering all these aspects, the Applicant deserves to be released on bail as his co-accused. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.466/17 registered with Khadak Police Station, Pune, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)