

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

CRIMINAL BAIL APPLICATION NO.2232 OF 2018

Nasir Hafiz Khan alias Sameer Ali

... Applicant

Vs.

State of Maharashtra

... Respondent

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M.s. Mohite a/w. Shantanu Phanse i/b. Mr.Rakesh Agrawal,
Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for Respondent – State.

Mr.S.S. Panje, PSI, Crime Branch, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 31, 2019.

P.C.

This is an application for bail under Section 439 of Code of Criminal Procedure in connection with C.R. No. I – 22 of 2015, registered with Dombivali Police Station, District – Thane, for the offence punishable under Section 394 read with 34 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, in short) was lodged on 3rd May, 2017. Applicant was arrested on 3rd May, 2017.

2 The prosecution case is that on 4th February, 2015, when the complainant was proceeding towards shop, three persons came on a motorcycle. One of them snatched a gold chain

and mangalsutra worn by her and both of them fled away from the place of incident. The ornaments were valued at Rs.185,000/-. During the course of investigation, several persons were arrested. Applicant was subsequently arrested and there is recovery of Rudraksha from the said applicant. The case of the prosecution is that the ornaments worn by the complainant were containing Rudraksha (Bid). During the course of investigation, statements of several witnesses were recorded. On completing investigation, charge-sheet is filed.

3 Learned counsel for the applicant submits that the applicant was arrested on 3rd May, 2017. There is no evidence to show his involvement in the present crime. The Rudraksha, which is recovered at his instance is available in open market, and, there is no identification to link the same with the crime. The applicant has not played any role in the alleged robbery. Applicant was not present at the scene of offence. There is no evidence to show his involvement in the crime. Prosecution is at the most alleging that the applicant is a receiver of the stolen property. Provisions of MCOC Acct cannot be invoked against the applicant.

4 I have perused the documents on record. After registration of FIR, statements of several witnesses were recorded by police. During the course of investigation, it was revealed that Smt.Sherabi Yusuf Sayyed, who is the head of said crime syndicate

is indulging in continuing unlawful activities and committed violent crimes with an object of gaining pecuniary advantage on behalf of the organized crime syndicate. During the course of investigation, it was revealed that there is sufficient evidence to prove the unlawful activities of the organised crime. It is the case of the prosecution that Smt.Sherabi Yusuf Sayyed had more than one charge-sheet of cognizable cases within the precedent 10 years. Considering the evidence, in exercise of powers under Section 23(1) of the MCOC Act, approval was granted, and, thereafter sanction to prosecute the accused was also granted. Several other persons were arrested, it was disclosed during the investigation that the gang is involved in activities of committing robbery by chain snatching etc. In the affidavit-in-reply filed by the prosecution and the report filed before the Special Court opposing the application for bail, it is mentioned that 24 cases are registered against the applicant with Mahatma Phule Police Station and 51 cases are registered in Delhi and Haryana States.

4 Most of the case registered with Mahatma Phule Chowk Police Station are under Sections 379 and 392 of IPC. Whereas, the cases registered at Delhi and Haryana during the period from 2016 - 2017, pertaining to offence under Section 420 of IPC. On perusal of charge-sheet, it appears that involvement of the applicant was disclosed, during the course of investigation immediately after registration of FIR and after arrest of the

accused Pinchoti Firoj Irani, whose memorandum statement was recorded on 9th August, 2015. Investigation revealed that the applicant is the member of the said gang. The report submitted before the trial Court states that the accused is wanted in six cases. It is also noted that several cases are registered against the applicant. Applicant is involved in the cases registered with Mahatma Phule Chowk Police station, with the other accused who are members of the crime syndicate.

5 Considering the aforesaid circumstances, no case for grant of bail is made out. Hence, this Bail Application is rejected.

(PRAKASH D. NAIK, J.)