

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

CRIMINAL BAIL APPLICATION NO. 2349 OF 2019

Vishnu Bhagwan Kekan	...Applicant
Versus	
The State of Maharashtra	...Respondent

.....

Mr. Ghansham S. Jadhav, Advocate for the Applicant.
Mr. Geeta P. Mulekar, APP for the state-respondent.

.....

CORAM : PRAKASH D. NAIK, J.
DATE : 14th January, 2020

PC :

1. This is an application for bail in connection with C.R. No. I-198 of 2015 registered with Satara Taluka Police Station, for offence punishable under Section 395 of IPC.

2. The prosecution case is that the complainant lodged complaint with Satara Taluka Police Station alleging that on 16th August, 2015, the complainant along with her husband Prabhakar, daughter Nivedita and grand-daughters went to Satara to collect the amount which they got in "Bhishi". The complainant collected amount of Rs. 1,50,000/- and came to Bombay Restaurant Chouk to travel to Pune. The complainant and her relatives approached the car. The said car stopped at them. The complainant and her relatives requested the driver to drop them at Pune. The driver accepted their request. The complainant and her relatives got into the car and sat in

the middle seat. While the car reached near Hotel Akash, that time one person who was seating on front seat held the left side door. The driver raised volume of music system. That time one accused who sat on back seat assaulted the husband of the complainant and snatched Rs.1,50,000/- The accused persons then snatched gold ornaments from the complainant and her daughter Nivedita. Thereafter, they were dropped at service road near Hotel Akash.

3. Learned counsel for the applicant submitted that the applicant is in custody from 4th July, 2017. There is no evidence against the applicant. The mobile phone has been recovered from the brother of the applicant which was allegedly handed over to him by the applicant. It is submitted that there is no evidence on record to show that the said cell phone belongs to the complainants husband. It is further submitted that all the other accused were arrested and granted bail on the ground that the they were in custody for a period about 3 years. The other accused Atul Waghmare was granted bail by the Sessions Court on the ground that there was no recovery from him. It is submitted that the prosecution case is that Atul Waghmare and the applicant had approached the jeweller for selling stolen property (gold) to him. He has been granted bail.

4. Learned APP, submitted that there are three other cases

registered against the applicant. The Cell phone is recovered from the brother of the applicant which is identified by the first informant. The statement of the jeweller was recorded which mentions that the applicant and the co-accused Atul had approached him for selling the ornaments which were stolen in the present case. The statement of the mobile shop owner is recorded, which shows that the applicant had approached him for opening the lock of the cell phone after formatting the cell phone. It is submitted that the other accused were granted bail since they were in custody for a period of about 3 years. The applicant was arrested subsequently.

5. I have perused the documents on record. The applicant is in custody for a period about 2 years and 6 months. There is no recovery from the applicant. The prosecution is however relying upon the recovery of cell phone from the brother of the applicant. It is also pertinent to note that the accused Santosh Prabhakar Kashid and Nazir Pasha Sayyed, had criminal antecedents. They were granted bail by the Sessions Court. They were in custody for a period about 3 years. The co-accused Atul Waghmare is granted bail by the Sessions Court. It would be relevant to note that the statement of the jeweller relied upon by the prosecution indicate that the applicant and Atul Waghmare had approached him for selling gold. He has been granted bail, considering the fact that, applicant is in custody

for a period about 2 years and 6 months and other factual aspects as stated above, bail can be granted to the applicant.

6. Hence, I pass the following order.

ORDER

- i) Bail Application No.2349 of 2019 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. I-198 of 2015 registered with Satara Taluka Police Station, on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iii) The applicant shall report concerned police station once in a month on every first Saturday between 10.00 am. to 12.00 pm. till further order.
- iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)