

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

CRIMINAL BAIL APPLICATION NO. 3123 OF 2019

Aakash Jumma Chaudhari & Ors. ... Applicants

Versus

The State of Maharashtra ... Respondent

...

Mr. Anil D. Joshi, Advocate for the Applicant.
Ms. J.S. Lohakare, APP for Respondent-State.
Mr. V.L. Kadam, A.P.I., Kalwa Police Station.

...

CORAM : SANDEEP. K. SHINDE, J.
DATE : 17th FEBRUARY, 2020.

P.C.

Heard.

1. Applicants are seeking their enlargement on bail in Crime No. I - 310 of 2019 registered with Kalwa Police Station for the alleged offences punishable under Sections 393, 395, 398 and 120-B of the Indian Penal Code, 1860 ("IPC" for short) along with Sections 3, 25 of the Indians Arms Act and Sections 37(1) and 135 of the Maharashtra Police Act.

2. Heard learned counsel for the applicant and APP for the State.

3. Perused the final report. On the basis of complaint filed by the owner of jewellery shop i.e. complainant, an offence under Section 393 of IPC was registered on 28.06.2019. In the complaint, she had alleged that the three unknown persons had barged into her shop and attempted to rob her. She resisted their attempts and tried to call for help, wherein after a hue and cry, the applicants allegedly fled away from the spot.

4. Prosecution has relied on the CCTV footage wherein, presence of the applicants no. 1 and 2 was noticed. It appears, in the Test Identification Parade held in August, 2019, the applicant no.1 was identified by the complainant while applicants Nos.2 and 3 were not identified. It may be stated that so far as applicant no.3 is concerned, prosecution has alleged that the motor cycle allegedly used by three unknown persons was owned by him.

5. I have perused the final report. It may be stated that complainant had initially told to police that three persons had attempted to rob her and did not even whisper/mentioned about presence of the fourth person. Though, Akash co-accused had been identified in the Test Identification Parade and though his presence was noticed in the CCTV footage, in my view continuing his custody is not justifiable for the reason that the complainant did not mention about the presence of fourth person.

6. So far as co-accused Sonu is concerned, his role is same as that has been attributed to Sandeep co-accused, who has been directed to be released on bail by this Court in Bail Application No. 3124/2019.

7. So far as, Sushil Kumar (co-accused) is concerned, his presence on the spot was not seen in the CCTV footage; however the role attributed to this applicant is that the motor cycle allegedly used for committing the robbery was owned by him.

8. It may be further stated that the prosecution could not point out criminal antecedents against these three applicants.

9. The investigation in this case is over and therefore, in view of nature of the accusations and additionally since the trial is not likely to commence or conclude in the near future, applicants are directed to be released on bail on the following conditions.

ORDER

(i) The applicants are directed to be released on bail on executing P.R. Bond for the sum of Rs.25,000/- with one solvent local surety in the like amount;

(ii) The applicants shall report to the Investigating Police Station, once in a month on Monday of 1st week commencing from March 2020 between 11:00 am to 01:00 pm. till the charge is

framed;

(iii) The applicants shall furnish the particulars of their current residential address as well as permanent address and contact details to the investigating officer within seven days from the date of their release on bail;

(iv) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

10. The application is allowed in the aforesaid terms and disposed off.

11. It is made clear that observations made hereinabove shall be construed as an expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP. K. SHINDE, J.)_