

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

913 BAIL APPLICATION NO.378 OF 2021

Navnath S/o.Sahebrao Gorde
Age: 32 years, Occu.: Labour
R/o. Savalivihar, Tq.Rahat,
Dist.Ahmednagar. ..Applicant

VERSUS

The State of Maharashtra,
Through Police Inspector,
Police Station, Loni,
Tq.Rahata, Dist.Ahmednagar. ..Respondent

...
Advocate for Applicant : Shri S.N.Lale Yelwatkar
APP for Respondent : Smt.D.S.Jape

...
CORAM : M.G.SEWLIKAR, J.

DATE: 3rd September, 2021

PER COURT:-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.
2. Prosecution's case is that the informant after day's business collected the golden and silver ornaments and deposited it in his four wheeler. Thereafter, four persons on two Pulsar Motorcycles came there. They were holding sickle. They robbed him of the golden ornaments worth Rs.24,98,030/-. On these allegations Crime No.0837 of 2020 came to be registered against the applicant under Sections 392 and 427 of the Indian Penal Code.

3. Heard Shri S.N.Lale Yelwatkar, learned counsel for the applicant and Smt.D.S.Jape, learned APP for the respondent-State.

4. Charge-sheet has been filed. No golden or silver ornament is recovered from the applicant.

5. Learned APP for the respondent-State submitted that the applicant has seven cases registered against him. Out of them, five are under Section 392 read with Section 34 of the Indian Penal Code (IPC), one is under Sections 399, 402 of the IPC and the present crime is under Sections 395, 427 of the IPC. She submitted that Aactiva was recovered from the applicant. According to her, Aactiva was used in commission of the offence.

6. No ornaments were recovered from the applicant. Therefore, a case is made out for bail.

7. Mere pendency of the criminal cases is not a ground to deny bail. For this purpose, Shri Lale, learned counsel for the applicant placed reliance on the decision in the case of ***Prabhakar Tewari Vs. State of U.P. and Another***, Criminal Appeal No.152 of 2020 (arising out of Special Leave Petition (Cri.) No.9207/2019) (SC). The Hon'ble Supreme Court recorded the following observations:

“The material available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail.”

8. In this view of the matter, just because some cases are pending against him, cannot be a ground to refuse bail to the applicant when the evidence against the accused is not cogent to connect him with the offence. Hence, the order:

ORDER

- i) Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.30,000/- (Rs. Thirty thousand only) with one solvent surety in the like amount, in connection with Crime No.0837 of 2020, registered with Loni Police Station, Dist.Ahmednagar, under Sections 392, 427 of the Indian Penal Code, and under Sections 4 and 25 of the Arms Act, and on condition that he shall report to the concerned Police Station once in a month till the completion of the trial.
- iii) Application is disposed of.

**(M.G.SEWLIKAR)
JUDGE**