

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

CRIMINAL BAIL APPLICATION NO. 42 OF 2021

Vickyraj Sanjay Choudhari Applicant

Versus

The State of Maharashtra Respondent

Ms. Rebecca Gonsalvez i/b Dr. Yug Mohit Chaudhary, for the applicant.

Smt. A.A. Takalkar, APP for the State/Respondent.

**CORAM :SARANG V. KOTWAL, J.
DATE : 30th MARCH, 2021**

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. I-100 of 2019 registered at Karad Taluka Police Station, Satara, on 11/3/2019 under sections 395, 397, 400 of the Indian Penal Code and under Section 3 and 25 of the Indian Arms Act. The applicant was arrested on 15/3/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Ms. Rebecca Gonsalvez , learned counsel for the applicant and Smt. A.A. Takalkar, learned APP for the State.

3. The prosecution case is that on 11/3/2019 at about 4.00 p.m., four persons entered Shenoli Branch of Bank of Maharashtra. They had a revolver with them. The branch Manager, first informant Mr. Amol Shinde, other employees and customers were threatened at the point of revolver. They were locked in the strong room. The offenders then took away golden ornaments, mobile phones and cash amount totaling Rs. 32,26,675/-. One person was waiting outside in a car. They went away in that car. The allegations are that accused Kiran Gaikwad, Balaji Gaikwad, Rajvirsingh, Siddharath Yadav, Shravankumar Yadav, Abhishekhkumar Ranjit Singh and the present applicant committed this offence. The allegations against the present applicant are that one live round and three empty magazines of pistol were found from his room at Chembur. Some of the accused were arrested when they were trying to escape to their native place. During the investigation, property worth more than

Rs. 24 lakhs was recovered from other accused.

4. Learned Counsel for the applicant submitted that the applicant was not put up for identification parade. Only accused No. 1 Kiran and accused No. 5 Abhishekhkumar were put in the parade where the witnesses have identified them. There is no recovery of any ornaments or cash amount at the instance of the present applicant. The only incriminating circumstance against him is that empty magazines and live round were found in his room. She submitted that this recovery has no connection with the actual offence in the present case. More over there is nothing to show that the said room was in exclusive possession of the present applicant.

5. Learned APP opposed this application. She submitted that a revolver was used during commission of the offence. Round of fire arms were found from the applicant's room. Therefore there is connection of the present applicant with the crime. Learned APP submitted that the applicant is resident of Bihar and

therefore it is difficult to secure his presence if he is released on bail.

6. I have considered these submissions. With the assistance of both learned Counsel, I have perused the charge-sheet. A copy of the charge-sheet is tendered in the Court. It is taken on record and marked as "X" collectively for identification. Learned APP already has original papers of investigation as the officer from concerned Police station is present in the Court.

7. The FIR was lodged by the branch Manager Mr. Amol Shinde. He has described the incident in detail. He has stated as mentioned earlier that at about 4.00 p.m. on 11/3/2019 four persons entered his bank. One of them was holding a revolver. He had threatened the employees. The informant and others were taken to strong room. There they were beaten. The accused then forcibly removed cash amount, ornaments etc. The employees were forced to open lockers. When they went out of the branch, the informant and others saw that they had gone away in a car.

There was one driver sitting in the car. Thus according to the prosecution, there were five persons at the spot who had actually committed this offence. Besides the first informant there are other employees who were present at the time of the incident. These witnesses are Shivram Waghmare, Ramchandra Namdas, Parvin Kumar, Nitesh Vankhede, Omkar Desai etc. Thus there were many eye witnesses. The investigating agency had arranged for identification parade but the present applicant was not asked to participate in that parade. Therefore none of the eye witnesses has identified the present applicant. After entire investigation, the investigating agency does not have any material to show that the applicant had taken part in the actual robbery or to show that he was one of the five persons who had gone to that branch for committing that offence.

8. There is no recovery at the instance of the present applicant of cash amount or ornaments which are relatable to the present offence. The only incriminating piece of evidence, as mentioned earlier is recovery of three empty magazines and one

live round recovered from the room where he was staying in Chembur, Mumbai. As rightly submitted by learned Counsel for the applicant, there is nothing on record to show that the said room was exclusively occupied by the present applicant. The recovery was not pursuant to any statement given by him under section 27 of the Indian Evidence Act. In any case, that recovery cannot be connected with the offence. In this view of the matter, there is hardly any evidence against the present applicant. The investigation is over. The applicant is in custody since 15/3/2019. Therefore he deserves to be released on bail.

9. Though I am inclined to grant bail to the present applicant, it is necessary to take into consideration the submissions made by learned APP that the applicant is from outside of Maharashtra and therefore his presence needs to be secured with appropriate conditions.

10. Learned Counsel for the applicant invited my attention to the order passed by this Court in respect of a co-accused. The

said order was passed in bail application No. 722 of 2020 on 4/09/2020. Vide that order, this Court (Coram:- Smt. Bharati Dangre, J.) had asked the concerned to furnish sureties from State of Maharashtra and certain conditions were imposed on him. Therefore same conditions can be imposed on the present applicant.

11. Hence the following order.

ORDER

- (i) In connection with C.R. No. 100 of 2019 registered with Karad Taluka Police Station, Satara, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or more sureties in the like amount from State of Maharashtra.
- (ii) The applicant should supply his permanent address, telephone number from State of Bihar as well as temporary address if he intends to reside in Maharashtra, to the investigating officer.
- (iii) The applicant shall report to Karad Taluka Police

Station once in two months.

- (iv) The applicant shall attend all the dates in the Court.
- (v) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)