

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Bail Application No. 675 / 2021

Mallappa Dahiram Bhui @ Bhoi ... Applicant

Vs

The State of Maharashtra ... Respondent

Alongwith

Bail Application No. 543 / 2021

Mallikarjun Maruthi Bhajetri @ Mallesh Mane ... Applicant

Vs

The State of Maharashtra ... Respondent

Mr. Priya G. Sarda, Advocate for Applicant in BA 675-2021.
Mr. Ujwal R. Agandsurve, Advocate for Applicant in BA 543-2021.
Mr. Y.Y. Dabke, APP for State.
Mr. Burje, Mandrup Police Station.

CORAM : SANDEEP K SHINDE J.

DATE : 7th APRIL, 2020.

P.C. :

Heard.

1. Applicant in Application No. 675/2021, is accused no. 2 and applicant in Application No. 543/2021, is accused no. 1, in Crime No. 301/2020 registered with Mandrup Police Station, Dist. Solapur for the offences punishable under Sections 395, 397 of the Indian Penal Code, 1860. Applicants are seeking their enlargement on bail.

2. Complainants' name is Rahul Bhaval. He alleged accused no. one had offered to sell gold at a lower price and on that pretext, Complainant was called at Village, Mandrup. Complainant went to Mandrup with his three friends. After reaching Mandrup, accused no.1 called him at place which was near Mandrup, i.e. Village Kandalgaon. Upon reaching the place suggested by the accused no. 1, Complainant had seen two persons over there. It is alleged suddenly three unknown persons appeared on the spot and they held attack on the Complainant and his friends. Soon thereafter, three other unknown persons appeared on the spot and they

robbed the Complainant and his friends. It is alleged that Complainant and his friend Nagesh were robbed of around Rs. 11000/-. It is further alleged these three unknown persons robbed their Mobile phones. Thereafter, accused and unknown persons fled the scene of offence. The Complainant and his companions went to Mandrup Police Station. They were referred to Hospital, at Solapur for Medical Examination. On a report of incident by Rahul, the crime came to be registered against the Mallesh Mane and eight unknown persons.

3. The accused no. 2 was apprehended on 3rd October, 2020, possibly at the instance of accused no.1. On 22nd October, 2020, a statement of Complainant and statement of Nagesh (friend of Complainant) was recorded under Section 164 of the Code of Criminal Procedure, 1973. In these statements, witnesses alleged that accused no.1 had promised to sell a gold chain at a discounted price, however in complaint, alleged accused had offered to 'sell gold' at low price. They also alleged assault held on them by swords. Interestingly, no corresponding injuries, allegedly inflicted

by sword, were found on the person of Complainant and his companions. The injury certificate disclosed a simple injury. As such, prima facie facts of the case do not admit application of Section 397 of IPC.

4. Be that as it may, the Test Identification Parade was held on 28th October, 2020, wherein the accused no.2 was identified. However, the two other co-accused, who were also identified, have been released on bail. Therefore, to be stated, that except Test Identification Parade, there is no material to indicate complicity of the applicant in the subject crime. Admittedly, there is no recovery of the property allegedly robbed, nor weapons allegedly used for committing the crime.

5. The investigation in the case is over. Trial is not likely to commence in near future. Applicants have no criminal antecedents. They have roots in the society and their presence for trial can be secured by imposing condition. Applications are allowed on the following terms.

ORDER

(i) The applicants are directed to be released on bail in Crime No. 301 / 2020 registered with Mandrup Police Station, on executing PR bond for the sum of Rs. 25,000/- each with one or more sureties in like sum.

(ii) The applicants shall report to the Investigating Officer once in a month i.e. Second Monday of each month commencing from April, 2021 between 11:00 am. to 01:00.

(iii) The applicants shall furnish particulars of their permanent residential address and contact details to the Investigating Officer forthwith.

(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.

6. Applications are allowed and disposed of accordingly.

7. It is made clear that observations made hereinabove be construed as 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.)