

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

CRIMINAL BAIL APPLICATION NO.533 OF 2020

Mahipal Dudharam Jat

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Shahed Ali Ansari, Advocate for Applicant.
- Smt.J.S. Lohokare, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.373/2019 registered with Wakad Police Station, Pune, under sections 395, 397, 504, 427, 120(B) of the Indian Penal Code, under section 3 (25) of the Indian Arms Act and under section 37(1)(3) r/w 135 of Maharashtra Police Act.
2. Heard Mr.Shahed Ali Ansari. learned counsel for the Applicant and Smt.J.S. Lohokare, learned APP for the State.
3. The prosecution case is that on 06/03/2019, five unknown persons came to a jeweller's shop known as 'Punekar

Jewellers'. One of them waited outside. Four persons went inside. One of them was holding a pistol. He fired at the informant. They robbed gold ornaments weighing about 3005.445 gms. They also took away CCTV DVR. The total value of the stolen articles was Rs.90,15,000/-. According to the prosecution case, the accused had come on two motorcycles. Those were also stolen motorcycles. The allegations against the present Applicant are that the Applicant was residing at Pune since past many days. Accused No.1 Subhash Bishnoi and his four associates came in contact with the present Applicant. It is alleged that the accused No.1 Subhash was in touch with the present Applicant. It is alleged that the Applicant was one of the conspirators in commission of this offence. There was recovery of 50 gms of golden ornaments at his instance. The Applicant was arrested on 11/04/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

4. Learned counsel for the Applicant submitted that the ornaments which were recovered from the Applicant, were not

shown to the informant or his employees and therefore the ornaments cannot be connected to the present offence. He submitted that even from the prosecution case, the Applicant was not at the spot. The actual robbery was committed by the other accused. The Applicant is roped in as a conspirator and for that also there is no evidence against him. Learned counsel for the Applicant submitted that the Applicant is ready to furnish local solvent sureties.

5. Learned APP opposed this application. She submitted that the Applicant is not resident of Maharashtra. Therefore, his availability, if released on bail, is doubtful. There is recovery at his instance.

6. I have considered these submissions. With the assistance of both the learned counsel I have perused the charge-sheet. The FIR is lodged by Divyank Pradip Mehta, who was the owner of Punekar Jewellers. He has described the incident which is narrated above. He has given description of the offenders, who had entered his shop. His story is supported by

his employee Monali Navnath Kandhare. The informant had also suffered injuries. Therefore the occurrence of the incident cannot be doubted. As far as identity of the present Applicant is concerned, it is not even the prosecution case that the Applicant was one of the five persons, who had committed actual robbery in that shop. The Applicant was not put in Test Identification Parade to enable the informant and his employee to identify him.

7. The allegation that the Applicant had conspired with other accused, is not really supported by any material in the charge-sheet. There are statements of two witnesses namely Mahindra Pukhraj Chaudhary and Ghasuram Kanaram Chaudhary. The witness Ghasuram had introduced the present Applicant with the other accused including the main accused Subhash. He was on regular talking terms with the other accused. These witnesses have stated that there was a possibility that they were hatching some plans. But they did not have definite information about that. Their statements are very vague.

As far as present Applicant is concerned these statements do not form any serious incriminating material against the Applicant.

8. Apart from that, there is recovery of some gold ornaments at the instance of the present Applicant. They were recovered from the Applicant's room, which he was occupying. These were weighing around 50 gms. Significantly these ornaments were not shown to the informant and his employees to enable them to identify those ornaments. Therefore even this recovery cannot be connected with the present offence. In this view of the matter, there is hardly any material against the present Applicant.

9. Hence, the following order :

ORDER

- (i) In connection with C.R.No.373/2019 registered with Wakad Police Station, Pune, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty

Thousand Only) with two local solvent sureties in the like amount.

- (ii) The Applicant shall attend the concerned police station once in every week till framing of the charge. He shall attend all the dates during trial.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)