

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.734 OF 2020

1) SUBHAS RAMCHANDRA RATHOD)
2) AJAY SUBHAS RATHOD)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Ms.Swapna Kode i/b. Mr.Nitin Deshpande, Advocate for the Applicants.

Smt.P. P. Shinde, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 25th NOVEMBER 2021
PRONOUNCED ON : 10th DECEMBER 2021**

P.C. :

1 The present application has been moved by the applicants under Section 439 of the Code of Criminal Procedure in Crime No.434 of 2019 registered with Police Chandannagar, Pune, for offences punishable under Section 395, 392, 341, 34,

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120B and 201 of the Indian Penal Code (IPC), under Section 3(25) of Indian Arms Act and under Section 37(1) read with 135 of the Maharashtra Police Act.

2 It is the case of prosecution that informant, at the relevant time, was working in the shop in the name and style “I.I.F.L. Gold Loan” at Nagar Road. On 5th December 2019, the informant along with Bhagwan Choudhary opened their office and started their usual work. At 10.30 a.m., an unknown person came and started enquiring with the informant’s colleague, namely, Kavita Kondalkar about gold loan. While the said unknown person was sitting, two unknown persons entered in the office and threatened Kavita Kondalkar with a revolver. His companion then closed the shutter and took out his revolver. They threatened the staff to open the safe room and when the locker was opened they removed all the ornaments which were pledged by the customers and fled away. First Information Report (FIR) accordingly came to be lodged.

3 It appears that the approximate valuation of the ornaments taken away was to the tune of Rs.4,20,00,000/-. The police also collected the CCTV footage and the registration number of the car that was used by the said persons. Accordingly, the accused came to be arrested.

4 Ms.Swapna Kode, learned counsel for the applicants, submits that no specific allegation is made against applicant no.2 whereas according to the prosecution certain recoveries were effected at the instance of applicant no.1. According to the learned counsel the recovery is already made. Investigation is completed. There are no criminal antecedents. In such circumstances, applicants deserve to be enlarged on bail.

5 Smt.P. P. Shinde, learned APP, on the other hand, submits that huge recovery has been made from applicant no.1. Having regard to the nature of offence, the application does not merit consideration.

6 Perused the investigation papers. Admittedly, there is nothing against applicant no.2. However, it does appear from the record that there was recovery of gold ornaments at the instance of applicant no.1. Moreover, the investigation is completed. No criminal antecedents are forthcoming and the trial may take its own time. In such circumstances and having regard to overall circumstances of the case and as also material on record, I am inclined to allow the application. Hence, I pass the following order :

ORDER

- (i) Applicant no.1 Subhas Ramchandra Rathod and Applicant No.2 Ajay Subhas Rathod shall be released on bail in Crime No.434 of 2019 registered with Police Chandannagar, Pune, on their executing P.R.Bond in the sum of Rs.25,000/- each and on furnishing one or two sureties in like amount by each of them.

- (ii) The applicants shall not tamper with prosecution evidence.

- (iii) The applicants shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)