

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

CRIMINAL BAIL APPLICATION NO. 967 OF 2021

Popat Murlidhar Gaikwad	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Samir A. Vaidya a/w Vishal Bhogle a/w Deep Samant a/w
Aarti Dharamsey for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE :1st April, 2021.

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 646 of 2019 registered at Shirur Police Station, Pune rural, under sections 397, 398, 120-B read with Section 34 of the Indian Penal Code. The applicant was arrested on 31/08/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Samir Vaidya, learned counsel for the applicant and Ms. Pallavi Dabholkar , learned APP for the State.

3. The prosecution story as reflected from Statement of

Suraj Bandal is that, on 01/09/2019, at about 5.15 p.m., two unknown persons approached the victim Ankush Bandal who was wearing many gold ornaments. One of them stabbed him and the other removed golden ornaments and went away. The prosecution case against the present applicant is that he had conspired with other accused and had hatched a plan to rob the informant of his ornaments.

4. Learned Counsel for the applicant submitted that there is no admissible piece of evidence against the present applicant. The applicant's name transpired in the statement given by the co-accused Amol Ovhal. His statement was recorded under Section 27 of the Evidence Act wherein he has shown willingness to show the place where they had their meals and where that accused and the present applicant had gone together after the incident. He submitted that applicant's role and name are mentioned the inadmissible portion of that statement. Besides this, there is another circumstance that there was a very small duration call exchanged between this Amol Ovhal and the present applicant.

He submitted that the said call had no connection with the present offence. Apart from that there is no material against the present applicant.

5. Learned APP opposed this application. She submitted that the victim has suffered stab injury on abdomen. His ornaments were robbed. There is a phone call exchanged between Amol Ovhal and the present applicant. Therefore the applicant was aware of the offence. She submitted that the applicant was working with Police department and he had knowledge that the victim was in a habit of wearing many gold ornaments.

6. I have considered these submissions and with the assistance of both learned Counsel I have perused the entire charge-sheet. In this case, the important statement is of course that of victim Ankush Bandal. His first statement was recorded on 06/09/2019. He has stated that on 1/9/2019 at about 5.00 p.m., two unknown persons approached him. One of them stabbed him on his stomach and removed his golden chain from his neck. The

other person took that chain from his companion. The victim assaulted one of the assailants causing injuries to him. Others gathered at the spot. The assailants then escaped from the spot. The victim had suffered injuries on abdomen and on right wrist. Undoubtedly it is a serious injury. The statement of victim Ankush Bandal under section 164 of Cr. P.C. was also recorded on 19/10/2019. At that time, he had named Samir Kale and Ajit Jadhav as the persons who had robbed him. His statement shows that Amol Ovhal was not present at the spot. Therefore the call between the applicant and Ovhal is not directly connected with the present incident. The victim's nephew Suraj Bandal has corroborated victim's version.

7. The prosecution case is that co-accused Jadhav who had taken a golden ring from the victim had handed it over to this Ovhal. That offender Ajit Jadhav had met the applicant and Amol Ovhal. However, this theory is mentioned in the statement given by Amol under section 27 of the Evidence Act. That certainly is part of inadmissible portion of that statement. In this view of the

matter, there is no admissible incriminating piece of evidence against the present applicant. Therefore, he can be granted bail.

8. Hence the following order.

ORDER

- (i) In connection with C.R. No. 646 of 2019 registered with Shirur Police Station, Pune rural, 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 two sureties in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)