

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

CRIMINAL BAIL APPLICATION NO. 1701 OF 2021

Rajesh Jivanlal Lot @ Logi ... Applicant

versus

The State of Maharashtra Respondent

.....

Mr. Manish Mazgaonkar, for the Applicant.
Mrs. M. R. Tidke, APP for State- Respondent.

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CORAM : SARANG V. KOTWAL, J.
DATE : 16th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No.113/2018 registered at L. T. Marg Police Station, Mumbai on 11th April 2018 for offences punishable under Sections 392 & 395 read with 34 of Indian Penal Code (for short “IPC”).

2. Heard Mr. Manish Mazgaonkar, learned Counsel for the applicant and Mrs. M. R. Tidke, learned APP for State.

3. The First Information Report (for short “F.I.R.”) was lodged by 11th April 2018 by Narayanlal Solanki. He has stated that on 10th April 2018 he had gone to his work place at Zaveri Bazar. He was working in a jewellery shop. On that day, he was given Rs.1,63,600/- for keeping it in a safe. The informant was carrying cash with him from his office towards safety vault at about 7.15 p.m. At that time, suddenly somebody pushed him and he realized that his bag containing cash had disappeared. He tried to search for suspicious persons but he could not find anybody and therefore, he lodged the F.I.R.

4. It appears that, there was some CCTV footage and on suspicion the applicant was arrested. He was granted bail by learned Magistrate by order dated 26th April 2018. Thereafter, the allegations are that the applicant did not attend the Magistrate’s Court and the matter could not be committed to Sessions Court. Therefore, N.B.W. was issued against him and bail was cancelled and he was arrested subsequently. The learned Magistrate on this occasion rejected his bail application vide order dated 12th January 2021 and even the Sessions Court rejected his application for bail

vide order dated 6th February 2021. Therefore, the applicant has approached this Court for his release on bail.

5. Heard learned Counsel for the applicant. He submitted that there is no material against the applicant except recovery of Rs.10,000/- but that is not an incriminating circumstance. He submitted that the applicant is suffering from heart ailment and for that purpose he annexed copies of medical certificates to this application. Learned Counsel submitted that because of his heart condition he could not attend the Court. There was no intention on his part to avoid attending the Court.

6. Learned APP submitted that there is no guarantee that the applicant will attend the dates in the Court. Therefore, bail should not be granted to him.

7. I have considered these submissions.

8. I have perused the charge sheet. The only circumstance against him is recovery at his instance from his house on 16th April 2018. The recovery is of Rs.10,000/-. The allegations are that the

cash of Rs.1,63,000/- was stolen. Therefore, finding of Rs.10,000/- in that connection can not be called as a serious incriminating circumstance. Apart from that, there is no other evidence against him. Even there is no CCTV footage panchnama showing the applicant's involvement in the incident. Therefore, on merits, the applicant has a good case. It is true that the applicant had not attended the Court proceedings as after is release on bail. Therefore, applicant has offered explanation based on his heart condition. The applicant was arrested on the second occasion on 12th January 2021, since then, he is in custody. Considering the lack of evidence against him, background on merits and his acceptable explanation in not attending the Court, I am inclined to grant bail to the present applicant.

9. Hence, the following order.

ORDER

- (i) The applicant is directed to be released on bail in connection with C.R.No.113/2018 registered at L. T. Marg Police Station, Mumbai on executing

P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount;

(ii) The Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)