

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

CRIMINAL BAIL APPLICATION NO.1652 OF 2021

Altaf Mohammed Abrar Shaikh	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Sujit J. Sahoo, Advocate for the Applicant.
Smt. A.A. Takalkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 07th MAY, 2021
[Through Video Conferencing]

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 436 of 2019 dated 06/10/2019 registered at Nerul Police Station, Navi Mumbai under sections 394, 395, 402 read with Section 34 of the Indian Penal Code. The applicant was arrested on 08/10/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Shri. Sujit Sahoo, learned counsel for the applicant and Smt. A.A. Takalkar, learned APP for the State.

3. The prosecution case is that on 5/10/2019, the first informant Anil Semlani, who was a jeweller, was going towards his house. He was carrying gold ornaments from his shop. When he had reached the parking lot near Nerul Railway Station, he was accosted by one unknown person. Another person pelted stone towards him. The informant sensed danger. He started running away from the spot. While running, he tried to throw his bag inside the gate of MTNL Office. However that bag fell outside the gate itself. One of the accused picked it up and ran away. His three other companions followed him. The informant chased one of them. He was caught at the spot. Crowd gathered there and started assaulting him. In the meantime, the police reached there. The informant and the apprehended accused were taken to the police station and then the FIR was lodged. It is mentioned in the FIR that the informant had lost golden ornaments worth Rs. 40 lakhs. He had given description of

three accused. Fourth one was caught at the spot.

4. Learned Counsel for the applicant submitted that there is absolutely no evidence against the present applicant. There is no recovery at the instance of the present applicant. Recovery is effected from wife of accused No. 6 Allauddin Shaikh. She had produced property worth more than Rs. 13 lakhs. He submitted that the applicant was not identified in the identification parade. Co-accused who was caught at the spot was granted bail by this Court (Coram:- PD. Naik, J.) vide order dated 25/1/2021 passed in Criminal Bail Application No. 1473 of 2020. He submitted that one more accused Abdul Alim Hakim Khan @ Sonu is granted bail by this Court vide order dated 21.4.2021 passed in Criminal Bail Application No.1564/2021. He claimed parity.

5. Learned APP on instructions made a statement that the applicant was not identified in the identification parade. She fairly conceded that there was no recovery at the instance of the present applicant.

6. I have considered these submissions. As rightly submitted by learned Counsel for the applicant, there is hardly any material against the present applicant. The applicant was not identified in the identification parade. The co-accused was caught at the spot. His role is established because of his presence at the spot. The said co-accused Mohammed Riyasat Ansari is already granted bail by this Court as mentioned earlier. One more accused, namely, Abdul Alim Hakim Khan @ Sonu is granted bail as mentioned earlier. Therefore, on the principles of parity, the applicant deserves to be released on bail. There is no incriminating circumstances against the present applicant. There are no criminal antecedent against the present applicant. Hence, he deserves to be released on bail.

7. Learned A.P.P. submitted that the Applicant is not from this State and there are reasonable apprehensions that he will not be available during trial. To that submission, learned Counsel for the Applicant stated, on instructions, that the Applicant shall furnish local solvent sureties.

8. Hence, the following order :

ORDER

- (i) In connection with C.R. No.436 of 2019 registered with Nerul Police Station, Navi Mumbai, 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 local solvent sureties in the like amount.
- (ii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)