

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2049 OF 2021

Pooja Raju Budbukki .. Applicant

Vs.

The State of Maharashtra .. Respondent

...

Mr. Satyavrat Joshi for the Applicant.

Ms. A.A. Takalkar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 17TH JULY, 2021.

P.C:-

1. Learned counsel for the Applicant Mr. Joshi places reliance on the order passed in the case of co-accused Laxmi in Criminal Bail Application No.2044 of 2021 dated 16/06/2021. The said Applicant came to be released on bail on the ground that there is no evidence against the Applicant and, she came to be arrested on the basis of the statement of co-accused, which is not admissible in evidence and, there is no recovery from the said Applicant coupled with no test identification parade being held.

2. Learned counsel fairly states that the present Applicant is slightly on a different footing than the co-accused, in the sense that the recovery has been attributed to her in the form of discovery panchanama under Section 27 of the Evidence Act.

3. When the nature of allegations levelled in the complaint is perused, it would reveal that the FIR is lodged by an informant, who was travelling in an S.T. bus on 13/12/2020 with gold ornaments in her bag. Some seven women are alleged to have stepped into the bus at a particular place and encircled her and started pushing her. It is alleged that they started quarrelling with the informant and, all of them got down and, while alighting from the bus, one of them snatched her handbag and pulled her *mangalsutra* and started fleeing from the place. She was chased and nabbed by the police personnel and the handbag was taken into possession. The allegation is that three of them were apprehended and the rest of the stealers took to their heels.

4. The recovery *panchanama* recorded upon the arrest of the present Applicant, is drawn on 15/12/2020 and the place where the *mangalsutra* has been concealed is shown to be located at the end of one of the service roads. The *panchanama* records that the present Applicant led to a spot with a heap of mud and the *mangalsutra* was kept concealed under a stone. There is no material compiled in the charge-sheet connecting the *mangalsutra*, which was recovered at the instance of the present

Applicant, to the one which was stolen in the incident and, about which the informant has complained. In any case, the *mangalsutra* has been handed over to the Complainant and accepted by her. All articles which were contained in the bag, which were attempted to be picked up by the accused are also returned to her, barring some scanty amount.

5. In such scenario, recovery of *mangalsutra* on discovery under Section 27 of the Evidence Act at the instance of the Applicant, when it is found to be concealed in an open public place, being the service road after two days of the incident, *prima facie* does not inspire confidence. In any case, the investigation is complete, the charge-sheet is filed, therefore, in my opinion, the incarceration of the Applicant is not warranted any further. Hence, the following order:

ORDER

- (a) The Applicant – Pooja Raju Budbukki, shall be released on bail in C.R. No.706 of 2020 registered with Hinjawadi Police Station, District Pune on executing P.R. bond to the extent of Rs.20,000/- and furnishing one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any

person acquainted with facts of case and shall not tamper with prosecution evidence.

- (c) The Applicant shall report to Hinjawadi Police Station, Dist. Pune on the first Monday in every two months between 10.00 a.m. and 1.00 p.m. and co-operate with the investigation.

6. The Application is allowed in the aforestated terms.

7. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]