

BHALCHANDRA
GOPAL
DUSANE

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

BAIL APPLICATION NO.2151 OF 2021

1. Lakshman alias Machhi s/o Narsappa Applicants
Dandu
2. Rajesh Shailu Marpakka
3. Mr. Vikas Tulsiram Chalwadi

Vs.

The State of Maharashtra Respondent

Mr. Shaikh Khaja Moinuddin a/w Abhay G. Dolas for Applicants.
Ms. A.A. Takalkar, APP for State.
Pl, Deepak Surve, MIDC, Andheri (East), Mumbai

**Coram : NITIN W. SAMBRE, J.
Date : 25TH OCTOBER, 2021**

P.C.:

1. All the three accused were arrested in Crime No. 251 of 2020, registered with MIDC, Mumbai Police Station, for the offence punishable under Sections 454, 457, 380, 109, 120(B) read with 34 of Indian Penal Code and on 27th April, 2020 and are charge-sheeted.

2. The prosecution case is, the business premises of complainant, who was dealing in the business of casting, filing, polishing and wax setting of diamonds and jewellery at Niraj Industrial Estate, Andheri (East) was closed during lockdown due to pandemic. On 20th March, 2020, the complainant visited his premises, and shocked to notice opened premises and articles such as golden jewellery, diamond etc. were missing. As such, the offence in question.

3. Learned counsel for the applicants seeks parity with other co-accused namely Shankar Kumar Yesu and Dhimant Chotalal Chouhan, who are ordered to be released by this Court. According to him, nothing is recovered from any of the applicants.

4. Learned APP, on instructions, opposed the prayer and submits that as far as Accused- Rajesh Marpakka is concerned, there is a statement of witness that he has procured steel cutter. It is also claimed that there are criminal antecedents.

5. Considered submissions.
6. It is not in dispute that all these applicants after arrest were subjected to custodial interrogation and no recovery is shown against the present applicants as regards the valuables, which were stolen.
7. As such, claim of parity appears to be justified.
8. As far as criminal antecedents against some applicants is concerned, it cannot be inferred that similar type of allegations were made earlier in the offence which are registered, as such in my opinion since the applicants are behind the bars for more than one year, a case for grant of bail is made out. Hence, the application is allowed on following conditions :

ORDER

- (i) The applicant be released on bail in Crime No. 251 of 2020, registered with MIDC, Mumbai Police Station, for the offence punishable under Sections 454, 457, 380, 109, 120(B) read with 34 of Indian Penal Code, on furnishing P.R. bond in the sum of 25,000/- with one or more **local** sureties in the like amount.

- (ii) The applicant shall attend concerned Police Station on every Monday till the trial is concluded.
- (iii) The applicant shall neither influence the prosecution witnesses in any manner nor tamper with the evidence.
- (iv) The applicants while furnishing security shall also furnish address of their permanent residence and also furnish latest contact details to the Court below and also to the I.O.
- (v) The applicant shall attend the trial regularly.
- (vi) If there are 2 consecutive defaults in appearing before the Court below, prosecution will be at liberty to apply for cancellation of Applicants bail.

(NITIN W. SAMBRE, J.)