

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2349 OF 2021

SANJAY SUDAM MORE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Ajit D. Hon, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 15th NOVEMBER 2021
PRONOUNCED ON : 18th NOVEMBER 2021

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.I-336 of 2020 registered with Police Station Yeola Taluka, Nashik, for offences punishable under Section 394, 397, 34 of the Indian Penal Code (IPC).

2 It is the case of prosecution that the informant is a Group Relationship Officer in IDFC-1 Bank, Yeola. He used to collect small savings amount of account holders by visiting them. On 26th November 2020, he accompanied Sumant Vijay Shelke for the said purpose and after collecting the amounts they were proceeding towards Andersul for further collection. They were having collection of Rs.27,410/- with them in a bag. The prosecution alleges that all of a sudden a motorcycle came from behind and pushed Sumant Vijay Shelke as a result of which they lost the control of their motorcycle and fell in a pit. The prosecution further alleges that another motorcycle also came and there were two persons in addition to the earlier two persons. The person who was pillion rider of the second motorcycle who was armed with a big sickle came near the informant and Sumant Vijay Shelke and under threats removed the bag containing cash amount and then fled away. The informant accordingly lodged the report.

3 Mr.Ajit Hon, learned counsel for the applicant, submits that having regard to the age of the applicant and the fact that investigation is completed leading to filing of charge-sheet, no purpose would be served by keeping the applicant behind bars endlessly. Hence, the applicant may be enlarged on bail, urged learned counsel.

4 Mr.Malhotra, learned APP, on the other hand, opposed the submissions by contending that prior to the incident in question, the applicant had committed a similar offence at same place and then invited my attention to the statement of prosecution witness namely, Sagar Karbhari Pakle. According to the learned APP, the earlier incident took place on 9th July 2020 whereas the incident in question took place on 26th November 2020, that is within a period of four months. Besides, the applicant has been identified in the Test Identification Parade. There being no merit in the application, the same is liable to be rejected.

5 Perused the FIR and investigation papers. Although the applicant has been charged under Section 394 of the IPC but a bare reading of the FIR would show that it is not the case of the prosecution that while committing robbery, any hurt was caused by means of weapon or by any other means to the person of informant or his companion namely Sumant Vijay Shelke. It further appears that at the time of filing charge-sheet, Section 399 of IPC came to be added and rightly so, as it is alleged in the FIR that one of the accused had brandished a big sickle while snatching the bag containing the cash amount.

6 Be that as it may, the fact remains that the present applicant came to be duly identified during the Test Identification Parade. It is also clear from the statement of Sagar Karbhari Pakle that similar incident had occurred on 9th July 2020 with him and FIR No.213 of 2020 under Section 379 read with 34 IPC was registered in which the present applicant was one of the accused. Having regard to the fact that the earlier FIR was under Section 379 read with 34 IPC and whereas the present FIR is

under Section 397 read with 34 IPC and the punishment prescribed is up to 7 years, in my considered opinion, it is not necessary to allow the applicant to remain behind the bar, in as much as the trial may take considerable time.

7 For the aforesaid reasons, I am inclined to allow the application. Hence, the following order :

ORDER

- (i) Applicant – Sanjay Sudam More shall be released on bail in Crime No.I-336 of 2020 registered with Police Station Yeola Taluka, Nashik, on his executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the concerned police station as and when called by the Investigating Officer.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)