

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

CRIMINAL BAIL APPLICATION NO.2362 OF 2021

Prashant Sunil Shejwal

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. C. A. David, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 13th OCTOBER 2021

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 15 of 2021 registered with the Yeola Taluka Police Station, Nashik (Rural), for the alleged offence punishable under Sections 399 and 402 of the Indian Penal Code.
3. Perused the papers. According to the complainant – Vishwanath Kakad, Police Constable, he was on patrolling duty on 12th January 2021. He has stated that he and other police personnel received

secret information that there were some persons in one silver coloured vehicle on the Yeola-Manmad Road, near Dashmesh Hotel and that they were attempting to commit house breaking and dacoity. Pursuant thereto, the police personnel alongwith panchas raided the said place. The car was found behind the hotel and the occupants of the vehicle were apprehended. On taking search of the vehicle, the police allegedly found chopper, nylon string, iron rod and red chilli powder. The applicant was apprehended at the spot.

4. Learned Counsel for the applicant submits that although the applicant has antecedents, a perusal of the orders granting either anticipatory bail or bail shows that the applicant had no role to play in the said cases, and hence, he was released on bail/granted pre-arrest bail. He submits that there is not a single conviction recorded as against the applicant, till date. Learned Counsel relied on the order passed by this Court dated 30th September 2021, enlarging co-accused – Pankaj Gaikwad. Learned Counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant duly affirmed before the Circle Jailor, Nashik Road Central Prison. The same is taken on record. In the said an affidavit-cum-undertaking, the applicant has undertaken that if he is released on bail, he will not indulge in any criminal activities. The applicant is in custody

since January 2021. Investigation is complete and charge-sheet is filed. Although the applicant has antecedents, a perusal of the bail/anticipatory bail orders of the applicant in those cases shows, that there was no material, *qua* the applicant in those cases, and hence he was enlarged on bail/ granted pre-arrest bail.

5. No doubt, since the applicant was apprehended on the spot, there is *prima facie*, material against him, in the present case. However, considering the peculiar facts of this case and in particular the affidavit-cum-undertaking of the applicant undertaking that he will not indulge in any criminal activities, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 1:00 p.m. till the conclusion of the trial;

- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The applicant will not indulge in criminal activities;
- (vi) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;
- (viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6. The application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.