

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

CRIMINAL BAIL APPLICATION NO. 1105 OF 2020

Avinash @ Avdya Shadish Kale	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Pandit Kasar, for the applicant.
Mr. Ajay Patil, APP for the State/Respondent.

CORAM: SARANG V. KOTWAL, J.
DATE : 16th JUNE, 2021
(Through Video Conferencing)

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 748 of 2019 registered at Shirur Police Station, Pune, on 26/10/2019, under sections 395, 457, 380 of the Indian Penal Code. The applicant was arrested on 31/10/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.
2. Heard Mr. Pandit Kasar, learned counsel for the applicant and Mr. Ajay Patil, learned APP for the State.

3. The FIR was lodged by Noor Mohammed Pathan on 26/10/2019. He has stated that he was residing at Kavate Yemai, Taluka Shirur, District Pune. On 26/10/22019, at about 3.00 a.m., three persons entered their house. One of them was having a knife and one other was having heavy iron rod. They threatened the informant and his wife and forcibly took away golden ornaments of the informant's wife and a mobile handset. The informant had given description of one person amongst them. He came to know that the same persons had committed robbery in the houses of Prakash Ichake, Shashikant Palaskar and in the dairy of Bharat Bhoir.

4. Shri Kasar, learned Counsel for the applicant submitted that there is no evidence against the present applicant. Identification parade is not held. He submitted that there is recovery of mobile hand set allegedly at the instance of the present applicant but that mobile phone hand set is not connected with the present crime.

5. Learned APP opposed this application. He submitted that the FIR itself shows that mobile phone hand set was taken away and therefore, there is connection of the present applicant. He further submitted that there are antecedents against the present applicant.

6. I have considered these submissions. With the assistance of both learned Counsel, I have perused the charge-sheet. The charge-sheet contain statements of other victims and eye witnesses in the form of family members of those victims. Those witnesses are Jaitun Pathan, Prakash Ichake, Kisan Pokale, Bharat Bhor, Jaywant Ichake, Shashikant Palaskar etc. There is a memorandum statement wherein the applicant had given a statement showing his willingness to produce a mobile phone hand sent. Pursuant to his willingness, a mobile phone was recovered from a field. It was concealed below a stone.

7. In the entire charge-sheet, there is nothing to fix identity of the present applicant connecting him with the allegation of robbery. The only connecting piece which the prosecution wants to rely on is recovery of Nokia mobile phone. However, that mobile phone is not shown to the victim and there are no further details of Sim card etc. It is not shown to be that of the informant. Therefore, even this recovery is not connected with the allegations in the entire charge-sheet. In this view of the matter, the applicant deserves to be released on bail. Considering his antecedents, some conditions are imposed on him.

8. Hence the following order.

ORDER

- (i) In connection with C.R. No. 748 of 2019 registered at Shirur Police Station, Pune, 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 sureties in the like amount.
- (ii) The applicant is directed to attend the

concerned Police Station every fortnight to mark his presence for a period of two years from today.

- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)