

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

CRIMINAL BAIL APPLICATION NO. 1291 OF 2020

Farhan Liyakat Pathan

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Sachin B. Thorat for Applicant.

Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.341 of 2020 registered with Junnar police station, Pune, on 05/07/2020, under section 395 of the Indian Penal Code (for short 'IPC'). The applicant was arrested on 08/07/2020 and since then he is in custody.

2. Heard Shri. Sachin Thorat, learned counsel for the applicant and Shri. Yadav, learned APP for the State.

3. In this case the applicant himself had filed an F.I.R.

against unknown persons. It is his case that, on 04/07/2020, he had gone to Alephata to collect 900 chickens from a poultry farm. He was accompanied by Cleaner Hanjala Pathan and another assistant Majhar Shaikh. He sold 200 chickens to one Nasir and collected more than Rs.1 lakh. He further sold other chickens and collected money. Thus, in all, he had more than Rs.1,44,000/- with him and they started coming back to Junnar. At around 11.50p.m. in the night his vehicle was intercepted by two motorcycles. Three persons intercepted them. He was pulled out of the car, he was beaten, his money was taken away and his phone was also taken away. On these allegations, this F.I.R. was lodged. Subsequently, the investigation took a different turn and the applicant himself, though, he had lodged this F.I.R., was shown as an accused and was arrested. It was the case of the prosecution that the applicant himself gave an information to the actual offenders who removed cash after intercepting the vehicle.

4. Learned counsel for the applicant submitted that, there is absolutely no basis for even suspecting that the applicant was involved in this offence. The test identification parade is not held.

In any case, it would not help the prosecution because there is no dispute about the incident having taken place and that the applicant was beaten by the offenders. The prosecution case that he was the master mind and had arranged for occurrence of this incident, is not supported by any other independent evidence. There is no recovery from him and there is no other incriminating circumstance.

5. Learned APP, on the other hand, could not controvert the fact that, all other accused are released on bail.

6. I have considered these submissions. In this particular case, holding of test identification parade, as far as, present applicant is concerned is of no use. Other two companions Hanjala Pathan and Majhar Shaikh have corroborated the applicant's case as to how their vehicle was intercepted and as to how the money was taken away. There is no recovery from the present applicant. The important factor in this case is that, all other accused are granted bail. Therefore, now the investigating agency does not have any other independent material against the present applicant. The applicant is in custody since 08/07/2020. The investigation is

over and the charge-sheet is already filed. Further custody of the applicant will not serve any purpose. Therefore, I am inclined to grant bail to the present applicant.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No.341 of 2020 registered with Junnar 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) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)