

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

CRIMINAL BAIL APPLICATION NO. 1293 OF 2020

Afzal Akbar Maste

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Ms. Sofiya Ansari i/b. Mr. A. Q. Usmani for Applicant.

Ms. P. N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 01st MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 44 of 2020 registered at Wadkhal police station, on 22/05/2020, under section 392 of the Indian Penal Code (for short 'IPC').

2. Heard Ms. Sofiya Ansari, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') was lodged by one Geeta Mokal. She has stated that, she and her

husband were travelling on Mumbai Goa highway. When they were about to reach Dolvi, near Kandale gaon, another two wheeler which was driven by one person wearing blue coloured T-shirt and black jeans, having one sack on his back came near them. He snatched her Mangalsutra and went ahead towards Wadkhal in high speed. The informant's husband tried to chase him on his motorcycle but he went ahead. Thereafter the informant came to Wadkhal police station and lodged her F.I.R. Her Mangalsutra worth Rs.4,50,000/- was taken away by the applicant.

4. The prosecution case is that, one Rajesh Patil had seen that incident. He had also gone to the police station. Police then kept Nakabandi, therefore, the accused went to a petrol pump and went to washroom. This witness along with police party accosted him. He was searched. From his bag, the Mangalsutra was recovered. Panchanama to that effect was conducted at about 2:27p.m. Subsequently, the Mangalsutra and motorcycle of the accused were shown to the first informant who identified it.

5. Learned counsel for the applicant submitted that there is a discrepancy in the C.R. number mentioned in the Station

Diary. She submitted that the identification parade of the accused was not held. It was her contention that the panchanama of seizure of Mangalsutra was carried out at around 2:30p.m. and arrest was shown in the night at 10:30p.m. She, therefore, submitted that, sufficient doubt is created in the investigation and, therefore, benefit of doubt should be given to the applicant. She submitted that the charge in this case was already framed, but there is no progress in the trial.

6. Learned APP opposed this application. She submitted that, there are 13 similar antecedents against the present application. He was immediately apprehended with the stolen property and, therefore, under section 114 of the Indian Evidence Act, there is a presumption against him. She submitted that the article and motorcycle were identified by the first informant.

7. I have considered these submissions. As discussed above, the accused/applicant was arrested soon after the incident. There is an eye witness to the incident who had helped the police to apprehend the accused. In the F.I.R. itself, the description of the accused and his clothes was given. The applicant was found

wearing same clothes and Mangalsutra was found in his bag. The motorcycle and Mangalsutra were identified by the first informant. There are similar antecedents against him. Therefore, it is not safe to release such person on bail in the background of sufficient material against him. Therefore, no case for grant of bail is made out.

8. The application is rejected.

9. However, since the charges are already framed, the learned trial Judge shall make efforts to take next step in the trial as early as possible in accordance with law.

(SARANG V. KOTWAL, J.)