

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

CRIMINAL BAIL APPLICATION NO. 1403 OF 2020

Bharat @ Barat @ Barya Tatyaji Kale Applicant

Versus

The State of Maharashtra Respondent

Ms. Trupti Khamkar a/w. Ganesh Nadar i/b. N. M. Nadar for
Applicant.

Mrs. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. I 190 of 2019 registered at Yevla police station, Nashik, on 26/10/2019, under sections 395, 399 and 402 of the Indian Penal Code (for short 'IPC'). The applicant was arrested on 27/10/2019 and since then he is in custody.

2. Heard Ms. Trupti Khamkar, learned counsel for the applicant and Mrs. Lohokare, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Santosh Rajguru. He has a saree shop at Jalgaon Nevur, Tal. Yevla, Dist. Nashik. On 25/10/2019 he went home after his daily business. His employees namely Dnyaneshwar, Sagar, Ganesh and Santosh slept inside the shop. Dnyaneshwar told the informant's brother Rahul telephonically at 2:30a.m. that, 4 to 5 persons had tried to break open the shop with an iron instrument and they are captured in the CCTV footage. They had taken away a motorcycle. The offenders were chased but only one of them could be apprehended. Other three escaped in the darkness. The apprehended person gave names of his associates which included name of the present applicant. On this basis, the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, the only evidence against the present applicant is alleged statement of the co-accused whereby the applicant's name was disclosed. It may amount to confession of co-accused but that is a very weak piece of evidence and it needs corroboration. The applicant is only 20 years of age. He is in custody for a long period. She submitted that, there is no other evidence against him in the nature of recovery of

motor cycle or any other incriminating article.

5. Learned APP opposed this application. She submitted that, there are 12 antecedents against the present applicant. She submitted that, disclosure by the co-accused as mentioned in the F.I.R. is sufficient.

REASONS

6. With the assistance of both learned counsel, I have perused the charge-sheet. There is a circumstance of disclosure by co-accused before the witnesses about the involvement of the present applicant. It is the solitary piece of evidence against the applicant. There is no other incriminating circumstance in the form of recovery. The applicant is 20 years of age and he is in custody since 27/10/2019. In the incident nothing from the shop was stolen and nobody was injured. There is recovery of motorcycle at his instance. The accused including the present applicant did not try to assault any of the witnesses. In this view of the matter, considering the applicant's young age, leniency can be shown for consideration of his bail. He is only 20 years of age. Though there are antecedents against him, the apprehension of the investigating

agency in that behalf can be taken care of by imposing suitable conditions on the applicant.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No. I 190 of 2019 registered at Yevla police station, Nashik, 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 shall attend concerned Police Station on every fortnight for a period of one year from today.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)