

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

CRIMINAL BAIL APPLICATION NO. 2942 OF 2021

Rahul Kailas Bavane	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Samyak Gimekar i/b Mr. Suvidh Kulkarni for the Applicant

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

API Mr. Santosh Koli from Chaturshrungi Police Station, Pune, is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 11th 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. 214/2020 registered with the Chaturshrungi Police Station, Pune for the alleged offences punishable under Sections 397, 342, 452, 392, 506(2), 34 of the Indian Penal Code; under Sections 4 and 25 of the Arms Act and under Sections 37(1), 135 of the Maharashtra Police Act.

3 Perused the papers. According to the complainant-Raziya, aged 73 years, she was living in a bungalow at Sindh Society with her husband when the incident took place. She has stated that on 25th April 2021 at about 10:30 p.m. three unknown persons entered her house, brandished a knife and took away cash, U.S dollars, gold and diamond ornaments worth Rs. 15,80,000/-. The complainant has further stated that the said three unknown persons had threatened her not to report the incident to the police or they would come again.

4 Learned counsel for the applicant submits that there is no material to connect the applicant to the alleged offence. He submits that mere recovery of Rs. 5000/- at the instance of the applicant is a weak piece of evidence, inasmuch as, the money seized is not identifiable. He further submits that the applicant has no antecedents.

5 Learned A.P.P does not dispute the fact that the test identification parade has not been held and what is seized is only Rs.5,000/- at the instance of the applicant. She submit that recovery of jewellery/ornaments is at the behest of other co-accused and that Maharashtra Control of Organized Crimes Act ('MCOC Act') has also been invoked as against the other accused and not the applicant.

6 The applicant is in custody since 5th May 2021. Investigation is complete and charge-sheet is filed. Mere recovery of Rs. 5,000/-, by itself, is not sufficient to point to the complicity of the applicant in the alleged crime. As noted above, MCOC Act has not been invoked against the applicant. The applicant has no antecedents.

7 Considering the aforesaid material *qua* the applicant, 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. 20,000/- with one or two local sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, until conclusion of the trial;
- (iii) 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;

(iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

9 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.

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

REVATI MOHITE DERE, J.