

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (BA) NO. 904 OF 2021

(Sayyed Akaram s/o Asad Ali ..vs.. State of Maharashtra, through PSO, PS Morshi, Amravati)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. B.U. Thakre, Counsel for the applicant,
Mr. N.S. Rao, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 29-09-2021

The applicant is seeking bail in connection with Crime 505/2020 registered with the Morshi Police Station, District-Amravati, for offences punishable under Sections 457 and 380 read with Section 34 of the Indian Penal Code, Sections 3/25 of the Indian Arms Act and Section 135 of the Maharashtra Police Act.

2. The jewellery shop of Vijay Pradip Khandekar was targeted on the night intervening 20-12-2020 and 21-12-2020 and the miscreants broke open the door and stole silver ornaments weighing 6.5 kg. and certain ornaments which the customers had given for repairs etc. weighing 550 gm. and cash of Rs.35,700/- (Rupees Thirty Five Thousand Seven Hundred). During the investigation of similar offence registered vide Crime 505/2020, it transpired that a gang of robbers including the applicant was responsible for the thefts. One of the gang members Sikandar Ali was arrested and he disclosed in the memorandum under Section 27 of the Indian Evidence Act that other four members of the gang are travelling from Morshi to Nagpur with the stolen

property to explore the prospects of its sale at Nagpur. The Bolero vehicle, which was driven by the applicant, was intercepted and silver and gold jewellery and tyres which the gang had stolen from various shops, were recovered. Certain weapons were recovered. According to the prosecution, the applicant was in possession, on his person, two illegal fire arms with live cartridges.

3. The learned Counsel for the applicant would submit that the applicant is only a driver and that he had no role to play in the thefts. While it would be for the trial Court to look into the defence, *prima facie*, it is difficult to believe that a driver would be armed with illegal weapons. The applicant claims to be a resident of Madhya Pradesh. While the learned Counsel does submit that certain relatives of the applicant are based at Morshi and that is how he landed up in Morshi, the submission is, *prima facie*, unacceptable.

4. The house-breaking is committed at night in order to commit theft and if convicted, the maximum punishment could be fourteen years.

5. In view of the gravity of the accusations, the severity of the punishment, and the material on record, the applicant is not entitled to bail.

6. The application is dismissed.

JUDGE