

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

22 BAIL APPLICATION NO.484 OF 2022

**PRAKASH KALYAN CHUNGDE
VERSUS
THE STATE OF MAHARASHTRA**

Mr.S.G. Ladda, Advocate for the applicant.

Mr.S.B. Narwade, APP for the respondent/State.

**CORAM : SMT. VIBHA KANKANWADI, J.
DATED : 02.05.2022**

PC :-

01. Present applicant has been arrested on 21.07.2021, in connection with Crime No.262 of 2021, registered with Khultabad Police Station, Dist. Aurangabad, for the offences punishable under sections 120-B, 394, 395, 397 of the Indian Penal Code.

02. Heard Mr.S.G. Ladda, learned Advocate for the applicant and Mr.S.B. Narwade, learned APP for the respondent/State. In order to cut-short, it can be stated that both of them have vehemently made submissions in support of their respective contentions.

03. The charge-sheet is filed after completion of investigation on

14.09.2021 and therefore fresh physical custody of the applicant is not required for the purpose of investigation.

04. Prosecution's case in brief is that one Vijay Asaram Bodakhe is the owner of Jai Shri Ram Servo Indian Oil Petrol Pump (Petrol Pump) situated on Verul to Kannad road. On 19th July, 2021 at 01:40 p.m., informant received a call from Satish Chavan informing him that Ashok Gopinath Kakade, who is the Manager of Petrol Pump, had met with an accident and was lying near flyover in injured condition. He was further informed that the bag which he was carrying was snatched by two unknown persons. Accordingly, crime came to be registered under the aforesaid sections.

05. During investigation, it transpired that accused Prakash Chungade was working with the Petrol Pump. He knew that injured Ashok Kakade carries cash in the evening to the Bank for depositing it in the account of Petrol Pump. Therefore, he and other accused decided to commit theft of the said cash to get over their financial difficulties. Accordingly, applicant and other accused proceeded on the Motorcycle and when they came face to face, accused Vijay Chandwade gave a blow of iron rod on the face of Ashok

Kakade. Ashok Kakade fell down. Applicant and other accused ran away with the bag containing cash.

06. Perusal of the charge-sheet would show and it has been pointed out by learned APP that the evidence against present applicant is in the form of memorandum and discovery of Rs.49,000/- and one Motorcycle. It is to be noted that there is no mark mentioned in the panchanama on the currency notes, which would be said to be then identifiable with the stolen amount. Learned APP further submits that there is no criminal antecedents of the applicant and one case under section 379 read with section 34 of the Indian Penal Code has been registered against him. It cannot be taken as a criminal antecedent and that cannot be a hurdle to grant bail in this case as the evidence that is collected in this case will have to be assessed independently. Learned APP submits that the role attributed to the present applicant is that he had done Reki and he was covering the main accused persons. His call details have been collected and his location at the relevant time is near the spot and as the informant proceeded. For this, it can be said that, that document will have to be proved in view of the fact that it is an electronic evidence. At present along with charge-sheet there is no certificate under

section 65-B of the Indian Evidence Act. There are statements of two eye witnesses. One is Rahul Kisan Rathod and another Suresh Haridas Rathod. Both of them have stated that when the Manager was going on Motorcycle, at that time two persons on the Motorcycle coming from opposite direction had assaulted the Manager by rod on his face. As a result of which the Manager fell on the divider and thereafter a boy who was wearing red coloured shirt, snatched the bag, which was on the back of the Manager and sat on the Motorcycle, which was being driven by a boy wearing white coloured shirt. They went towards Kannad. It is then stated that on another Motorcycle, there were three persons, who also then fled behind other Motorcycle towards Kannad. Those two witnesses have identified co-accused Mahendra Ramdas Salunke in the identification parade. No identification parade in respect of present applicant appears to have been held. An amount of Rs.1,15,170/- is stated to have been recovered on the basis of memorandum and discovery made by said Mahendra Salunke. Said Mahendra Salunke has been granted bail by this Court in Bail Application No.115 of 2022 on 16.03.2022 [Coram : M.G. Sewlikar, J.]. Therefore, taking into consideration the role which was allegedly played by said co-accused Mahendra is more and he has been granted bail, definitely ground of parity is available to the present applicant.

Hence, following order :-

ORDER

- i) Bail Application is allowed.
- ii) Applicant – Prakash s/o. Kalyan Chungde be released on P.R. bond of Rs.30,000/- (Rupees Thirty Thousand) with one solvent surety in the like amount, in connection with Crime No.262 of 2021, registered with Khultabad Police Station, District – Aurangabad, for the offences punishable under sections 120-B, 394, 395, 397 of the Indian Penal Code and on condition that he shall not influence the witnesses, he shall not tamper the prosecution evidence and he shall attend the Court on the dates fixed during the trial and co-operate the trial Court for finishing the trial.
- iii) Bail Application is disposed of.
- iv) It is clarified that the observations made in this order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[SMT. VIBHA KANKANWADI, J.]