

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

**948 BAIL APPLICATION NO.540 OF 2022**

**RUTURAJ @ RAJU @ ABHIJIT S/O KISAN SHINDE  
VERSUS  
THE STATE OF MAHARASHTRA**

...  
Advocate for the Applicant : Mr. Narayan B. Narwade  
APP for the Respondent / State : Mr. V.S. Badakh  
...

**CORAM : SARANG V. KOTWAL, J.**

Date : JUNE 10, 2022

**PER COURT :-**

1. The applicant is seeking bail in connection with C.R. No.210 of 2017 dated 17.07.2017 registered at Ahmednagar Taluka Police Station. Initially the offence was registered under Section 379 of the IPC, but subsequently Section 395 of IPC and Section 3/25 of the Indian Arms Act were added.

2. Heard Mr. Narayan B. Narwade, learned Counsel for the applicant and Mr. V.S. Badakh, learned APP for the respondent / State.

3. FIR is lodged by one Gaurav Randhave. He has stated in the FIR that, on 17.07.2017, he was going towards his uncle's village

from Ayodhyanagar. He had reached at Ruichattisi Village. He stopped his motorcycle to answer nature's call. His keys were left with the motorcycle. Suddenly four unknown persons came and took away his motorcycle. On this basis, the FIR is lodged.

4. FIR mentions the chassis number and the engine number. The registration number of the vehicle was MH-16-BQ-7976.

5. After two days, he gave his supplementary statement on 19.07.2017. At that time, he completely changed his story and stated that, at the time of the incident, about six persons came on two motorcycles. Their faces were covered with masks. They showed a pistol to him and under that threat snatched the keys of the motorcycle and went towards Nagar. The informant has stated in his statement that since he was scared, he had lodged the FIR only for theft of his motorcycle. He has stated that he was threatened by the culprits that if he lodged FIR against them, he would face dire consequences. He had described general appearance of those accused, five of them had covered their faces with masks.

6. The investigation was carried out and during

investigation statements of his friends and relatives were recorded. They had stated that the informant had told them about the incident of decoity. The applicant was arrested on 04.03.2018 and since then, he is in custody. The investigation is over and the charge-sheet is filed.

7. Learned Counsel for the applicant submitted that at the highest it could be a case under Section 379 of IPC as is reflected in the FIR. The supplementary statement was recorded after two days of lodging the FIR, which is quite doubtful. There was no reason for the informant to suppress the real incident from the police once he approached the police station. He submitted that maximum punishment for offence under Section 379 of IPC is for three years and the applicant is already in custody for more than three years. Therefore, this application should be considered sympathetically.

8. Learned APP opposed this application. He submitted that there are seven other criminal antecedents against the applicant. There is recovery of the pistol and recovery of the engine bearing the same chassis number as mentioned in the FIR. He submitted that there is sufficient evidence against the applicant and therefore, bail should not be granted to him.

9. I have considered these submissions and with the assistance of both learned Counsel, I have perused the entire charge-sheet.

10. When the applicant was arrested on 04.03.2018, a country made pistol was found in his possession. On 06.03.2018 the engine and petrol tank were recovered at his instance from the spot in front of his house. Thus, there is sufficient evidence to show his complicity in the offence. However, it is extremely doubtful as to whether the offence under Section 395 of IPC is made out. At the very first instance, the applicant had clearly stated that it was a case of theft. Four unknown persons had stolen the motorcycle of the informant when he was answering nature's call. There was no force involved. Section 395 of IPC for the first time was described in informant's supplementary statement. There was really no reason for him to have suppressed the facts if the decoity had really taken place because he had already approached the police and at that time he was under no apprehension or fear. Based on the F.I.R., it does appear that it is a case of theft. The applicant has already spent more than four years in the custody. In that case, the applicant has already undergone more than the maximum sentence provided u/Sec.379 of I.P.C. Therefore,

the applicant deserves to be released on bail as the trial is likely to take a long time. At the same time his criminal antecedents cannot be ignored and therefore some conditions need to be imposed upon him. Hence the following order.

**ORDER**

- (i) In the event of arrest of the applicant in connection with C.R. No.210 of 2017 registered at Ahmednagar Taluka Police Station, the applicant is directed to be released on bail on his executing P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount.
- (ii) The applicant shall attend the concerned police station every fortnight for a period of one year from today and shall co-operate with the investigation.
- (iii) The Bail Application is disposed of accordingly.

**( SARANG V. KOTWAL, J. )**