

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1776 OF 2022

Mohammed Zahid Khan alias Javed .. Applicant
alias Java Khan

Versus

The State of Maharashtra .. Respondent

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Mr.Bhushan U. Deshmukh for the Applicant.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

PSI Sudhir Korgaonkar, attached to Kasturba Marg Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 23rd AUGUST, 2022

P.C:-

1. The applicant is charged with the offences punishable under Sections 392, 395 read with Section 34 of IPC in C.R.No.1083 of 2021 registered with Kasturba Marg Police Station. He came to be arrested on 10/11/2021 and on completion of investigation, charge-sheet has been filed against seven accused persons, the applicant being named as accused No.4.

2. The case of the prosecution is that while the complainant-Nivrutti Madane was moving with a cash amount of Rs.8,75,000/- packed in a bundle and carrying it in a bag, when he reached near shop No.7, Main Kasturba Road, Borivali at about 13.10 to 13.15 hrs., one person dashed him from behind. At that time, the second person snatched the bag, which he was holding and he noticed that there was third person, who assisted them in fleeing. It is stated by him that all the person fled in an auto-rickshaw towards Borivali Station. He made an attempt to chase the persons, which was unsuccessful.

3. Learned counsel for the applicant would submit that his name is not mentioned in the FIR, but during the course of remand, his name was inserted and he was arraigned as an accused and came to be arrested. Pertinent to note that during the course of investigation, the entire incident has been recorded in a CCTV camera and the panchnama of the said footage is compiled in the charge-sheet and it refer to the incident, which took place on Kasturba Road junction and the happenings of the events from 13.14.24 are recorded to the effect that some persons in a group are seen walking from Railway Station to Carter Road No.5 and at that very moment,

one person holding a black colour office bag with white cap, was intercepted and someone in the group, gave dash to the person wearing the cap. As a result, the bag fell on the ground and one person wearing a blue colour full shirt and black pant, picked up the bag and started running towards the railway station and, thereafter, he boarded one rickshaw and is seen leaving towards the direction of railway station.

4. Unfortunately, there is no identification on the basis of the CCTV footage. As far as the present applicant is concerned, he has not been identified by the complainant, when he was subjected to the TI parade, though four accused persons have been identified.

5. Apparently, there is inconsistency in the version of the prosecution, as the complainant states that he was carrying the cash in orange colour bag, whereas the CCTV footage recorded the office bag, black in colour. In any case, the investigation being complete and the applicant has not been identified by the complainant, he deserves his release on bail. Hence, the following order.

: ORDER :

(a) Application is allowed.

(b) Applicant – Mohammed Zahid Khan alias Javed alias Java Khan shall be released on bail in connection with C.R.No.1083 of 2021 registered with Kasturba Marg Police Station on furnishing P.R. Bond to the extent of Rs.30,000/- with one or two sureties in the like amount.

(c) The applicant shall mark his presence before the Investigating Officer on first Monday of the alternate month between 2.00 p.m. to 5.00 p.m., till framing of charge.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)