

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

BAIL APPLICATION NO. 2402 OF 2021

Rahul Nagnath Kamble

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Raviraj Paramane a/w. Keval Mehta for the Applicant.
Mrs. Sharmila Kaushik APP for the State.

**CORAM: ANUJA PRABHUDESSAI, J.
DATED : 1st APRIL, 2022.**

P.C.

1. This is an application for bail under Section 439 Cr.P.C. r/w. 21(4) of MCOCA Act, filed by the aforesaid applicant, who is facing trial in Special MCOCA Case No.12 of 2012 before Sessions Court, Thane, for offences under Section 394, 411 r/w. 34 of IPC a/w. Section 3(1)(ii), 3(2), 3(4) of MCOCA Act and Section 37(1), 137 of the Bombay Police Act.

2. Heard Mr. Paramane, learned Counsel for the Applicant and Mrs. Kaushik, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

3. The aforesaid crime came to be registered pursuant to the FIR

dated 21.7.2012, lodged by one Amupam S. Chaube. The Complainant had alleged that on 21.7.2012 at about 00.15 hours while he and his friend Akshay were waiting near subway of Asiroli Railway Station, three unknown persons came towards them and snatched his gold chain. One of the person threatened and assaulted the complainant with a chopper and they snatched their mobile phones, gold ring, and wallet, total value of which was Rs.62.200/-.

4. The records indicate that the Applicant was not identified by the Complainant and his friend Akshay or any other witness. No identification parade has been held. It is also not in dispute that the stolen property has not been recovered from the Applicant. Apart from the confessional statement of the co-accused, there is no other incriminating material to show the involvement of the Applicant in the aforesaid crime. As regards the antecedents of the Applicant, it is stated that he has been acquitted in all the cases.

5. The Applicant was arrested on 8.9.2012 and the chargesheet was filed on 12.12.2012. The Applicant has spent 9 years 3 months and 20 days in custody as undertrial prisoner. It is stated that prosecution has cited 31 witnesses, out of which till date only one witness is partly examined. Considering the pendency of cases, the trial is not likely to be concluded within a reasonable time. Incarceration for such prolonged and indefinite period would be violative of his fundamental

right under Article 21.

6. Considering the above facts and circumstances, particularly delay in conducting the trial, in my considered view, this is a fit case for grant of bail. Hence, the Application is allowed on the following terms and conditions:-

- (i) The Applicant abovenamed who is facing trial in who is facing trial in Special MCOCA Case No.12 of 2012 before the Sessions Court, Thane, be released on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two solvent sureties in the like amount;
- (iii) The Applicant shall report to the Investigating Officer or Sr. P.I. of the Rabale Police Station on the first Monday of every month between 11.00 a.m. to 2.00 p.m. until further orders;
- (iv) The Applicant shall attend on all the dates before the Sessions Court, Thane, till conclusion of the trial.
- (iv) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;
- (v) The Applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer;
- (vi) The Applicant shall not change his residential address without prior intimation to the Investigation Officer.

(ANUJA PRABHUDESSAI, J.)

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