

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1903 OF 2022**

Kamal @ Komal Babu Hirmatkar ...Applicant

Versus

The State of Maharashtra (At the ...Respondent
instance of Daund P.S.Pune)

...

Mr.Prashant S.Hagare for applicant.

Mr.M.G.Patil APP for State.

Mr.K.B.Pandhare HC/2207 of Daund Police Station present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 25th NOVEMBER, 2022.

P. C. :-

1. This is an application under Section 439 of Cr.P.C. filed by aforesaid applicant who has been arrested in C.R.No.610/2021 registered with Daund Police Station for offences punishable under Section 395, 201,120B of Indian Penal Code.

2. Heard Mr.Prashant S.Hagare learned counsel for applicant and Mr.M.G.Patil learned APP for the State. I have perused the record and considered the submissions advanced by

the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Bhaktu Nevadalmal Sukheja. It is the case of the prosecution that on 06/12/2021, the complainant came to his shop and looked after the business for that day. At about 10.15hrs while he was returning home from his shop with a bag containing cash of Rs.19,84,000/-, five unknown persons accosted him and one of the unknown persons snatched the bag containing the cash, while the other sprinkled Chilli powder in his eyes. The said persons fled away with the cash. The complaint came to be lodged against unknown persons.

4. Learned APP concedes that the Investigation Officer has not conducted Test Identification parade as a result the Identity of the applicant has not been established. The only incriminating material against the applicant is recovery of cash of Rs.4,00,000/-. Pursuant to the disclosure statement made by the applicant while he was in custody. There is nothing on record to indicate that the

amount recovered from the house of the applicant, forms part of the stolen property. Learned APP states that the applicant has criminal antecedents. In the absence of prima facie material to show the involvement of applicant in the said crime, the applicant cannot be declined bail merely on the basis of criminal antecedents. The applicant is in the custody since 8/12/2021. Chargesheet has been filed. Considering the large pendency, there is no possibility of the trial commencing and concluding in immediate future.

5. In view of the aforesaid facts and circumstances, the application is granted on the following terms and conditions:

- i) Applicant Kamal @ Komal Babu Hirmatkar be released on bail on executing PR bond of Rs.35,000/- with one or more sureties of like amount.
- ii) The applicant shall report to concerned PI of Daund Police Station on first Monday of every Month till framing of the charge.
- iii) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- iv) The applicant shall keep the Investigation Officer informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- v) The applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.
- vi) Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)