

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

CRIMINAL BAIL APPLICATION NO. 2392 OF 2021

Abdul @ Raju Jalal Sahabjada Khan Applicant
Versus
The State of Maharashtra Respondent

Mr. Kabul Singh Labana for Applicant.
Mrs. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 03rd JANUARY, 2022

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. I-186 of 2018 registered at Wada police station, Dist. Palghar, on 17/07/2018, under sections 395 and 120-B of the Indian Penal Code (for short 'IPC') and under sections 3 and 25 of the Arms Act.
2. Heard Shri. Kabul Labana, learned counsel for the applicant and Smt. Lohokare, learned APP for the State.
3. The First Information Report (for short 'F.I.R.') is lodged by one Prakash Jadhav on 17/07/2018. He has stated that, during the night of 16/07/2018 and 17/07/2018, about 7 persons

entered their house. Two of them had covered their faces with handkerchieves. Others were holding weapons like knife and pistol. They forcibly removed gold ornaments, cash and mobile phones from the house of the informant. The stolen property was worth Rs.4,42,000/-. On this basis the F.I.R. was lodged. The investigation was carried out and the applicant was arrested on 04/09/2018.

4. Learned counsel for the applicant submitted that the applicant is in custody since September 2018 i.e. for more than three years. Other two accused Malkhan Singh and Dharmendra Sing who were similarly placed, so far as evidence is concerned, are already granted bail by co-ordinate benches of this court and, therefore, on the ground of parity the applicant also deserves to be released on bail.

5. Learned APP opposed this application. She submitted that the applicant was identified in the test identification parade and there is recovery of gold ring and gold necklace at his instance. There is strong evidence against him.

6. I have considered these submissions. After perusing the

orders passed by co-ordinate benches of this court in Criminal Bail Application No. 14 of 2021 of Malkhan Singh and in Criminal Bail Application No. 27 of 2021 of Dharmendra Sing, I am convinced that principle of parity applies in favour of the present applicant. Both these co-accused were also identified in the test identification parade and there was recovery at their instance.

7. In the order passed in favour of Malkhan Singh, it was observed that the applicant was behind bars since past two and half years. There were no criminal antecedents. The identification parade was conducted after a period of one and half month from the date of incident. All these factors were taken into account and same principle is followed in the order passed in favour of Dharmendra Sing. In the present case, applicant's test identification parade was the same, in which, both co-accused were also identified. In spite of recovery at their instance they were granted bail. Therefore, strictly on the ground of parity, the applicant also deserves to be released on bail, as he also does not have criminal antecedents.

8. Hence, the following order :

ORDER

- (i) In connection with C.R.No. I-186 of 2018 registered at Wada police station, Dist. Palghar, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two local solvent sureties in the like amount.
- (ii) The Applicant shall attend the concerned trial court on every date of trial unless prevented by a reasonable cause.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)