

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2707 OF 2021

Tahir Jamal Shahid Ahmad @ Tahir Dawn ...Applicant

Versus

The State of Maharashtra ...Respondent

.....
Mr.Mahendra N. Sandhyanshiv for the Applicant.
Mr. H. J. Dedhia, APP for the Respondent -State.

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CORAM : V.G.BISHT, J.
RESERVED ON : 10TH DECEMBER, 2021
PRONOUNCED ON : 5TH JANUARY, 2022

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 200 of 2019 registered with Malegaon Chhavani Police Station, Nashik Rural for the offences punishable under Sections 392, 395, 120B, 411, 412 read with 34 of the Indian Penal Code (the IPC).

2. The informant, who is a jeweller, was returning home on 18th October, 2019 at about 9.30 pm along with ornaments.

He was on a two wheeler and gold ornaments were kept in the dicky and some silver ornamnts were kept in a cotton bag. Prosecution alleges that near Vardhman School, three unknown persons intercepted him. One of them threw chili powder in his eyes while other snatched his cotton bag containing silver ornaments. Informant tried to chase them. However, the cotton bag, which was snatched, fell down and informant took it in his custody. In the meantime, other unknown person took away gold worth Rs. 10 lakhs, which was kept in the dicky. Accordingly, First Information Report came to be filed.

3. Mr.Sandhyanshiv, learned Counsel for the applicant, submits that out of thirteen accused, nine accused are already on bail. The applicant is in jail since 24th November, 2019. Investigation is completed. Recovery has also been done. In such circumstances, the custody of applicant is totally unwarranted and therefore, he deserves to be enlarged on bail, argued learned Counsel.

4. Mr. Dedhia, learned APP, on the other hand, does not dispute the fact that nine accused have already been released on bail. According to learned APP, in test identification parade, the applicant has been duly identified. Having regard to the nature of offence, the application deserves to be rejected.

5. Perused investigation papers. It is also not disputed by the prosecution that 64 Tolas of gold came to be recovered from accused Manish Ravindra Sonar, who is also released on bail by this Court **(Coram: Prakash D. Naik, J.)** on 15th January, 2020. I have also gone through the memorandum of test identification parade. The present applicant and other co-accused, namely, Mushir Sayyed and Jisan Ahmed were duly identified by informant. Of them, co-accused Mushir Ali Noorali Sayyed is already granted bail by this Court **(Coram: C.V. Bhadang, J.)** on 4th December, 2020.

6. There is no recovery at the instance of present applicant. He is in custody since 24th November, 2019. The trial is yet to be started. In such circumstances, the custody of applicant is totally unwarranted.

7. In view of above, I am inclined to allow the application. Hence, the following order :

ORDER

(i) Applicant- Tahir Jamal Shahid Ahmad @ Tahir Dawn shall be released on bail in C.R. No. 200 of 2019 registered with Malegaon Chhavani Police Station, Nashik Rural on his executing P.R. Bond in the sum of Rs. 25,000/- with one or two surety/ sureties in like amount.

(ii) The applicant shall attend the concerned police station once in every fortnight till framing of the charges.

(iii) Bail before the trial Court.

(iv) It is made clear that the observations made

herein are *prima facie* and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(v) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)

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