

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1591 OF 2020

Karan Ramashish Vishwakarma ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Aditya Sharma, for the Applicant.
Mr. Y. Y. Dabke, APP for the Respondent / State.
M. T. Jadhav, PSI Poynad Police Station Raigad.

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CORAM : C.V. BHADANG, J.
DATE : 8 MARCH 2022

P.C.

. By this Application, the Applicant (Accused No.4) is seeking release on bail in Crime No.58/2015 of Police Station Poynad, District Raigad, under Section 395, 397, 347 and 412 of the IPC and Section 3 and 25 of the Arms Act.

2. The aforesaid crime is registered on the basis of the complaint dated 26 August 2015 lodged by Manoj Kantilal Jain who is having a Jewellery Shop by name *Surbhi Jewellers* at Poynad, Tehsil Alibag, District Raigad. The incident in question is alleged to have happened on 26 August 2015, at about 9.20 p.m. when four unidentified persons came in the shop with weapons and had

committed dacoity of the golden ornaments from the said shop. On the basis of such complaint, the offence came to be registered and after investigation, the chargesheet is filed.

3. There are in all 10 Accused in this case. The prosecution case is that the Applicant as member of the Organized Crime Syndicate, had committed the dacoity as part of continuing criminal activity of the syndicate. Accused No.1 Jinah @ J. K. Nainamohammad Laibi is said to be the gang leader.

4. I have heard the learned counsel for the parties and Perused record.

5. It appears that out of the 10 Accused, Accused No.5 Mubin Sagir Shaikh, Accused No.6 Bilal Kasim Kureshi, Accused No.7 Pradip @ Babulal Laxman Patil and Accused No.8 Samip Bhagvan Patil have been released on bail by the learned Special Judge. Accused No.9 Sunny Sunil Patil and Accused No.10 Bipin Sohanlal Bafna have been released on bail by this Court by order dated 28 February 2017 and 22 December 2016 respectively.

6. The Applicant was arrested on 26 September 2015 and is in custody since then. This Application was adjourned in order to enable the learned APP to examine and to make a statement whether the Applicant figures in the CCTV footage and whether

there was a Test Identification Parade (TIP) conducted. Today, the learned APP, on instructions from the Investigating Officer, states that the Applicant has not been identified in the CCTV footage and the TIP has not been conducted. It is also not the case of the prosecution that the Applicant was arrested on the spot in as much as the incident had happened on 26 August 2015 and the Applicant was arrested on 26 September 2015. The only circumstance against the Applicant as pointed out by the learned APP is a Memorandum under Section 27 of the Evidence Act dated 27 September 2015 under which the golden ornaments worth Rs.13,96,825/- have been shown to be recovered at the instance of the present Applicant from a room near *Shivam General Stores* at Chandan Nagar.

7. The learned counsel for the Applicant has placed reliance on the decision of the Supreme Court in *Union of India Vs. K. A. Najeeb*¹ and the decision of this Court in *The National Investigation Agency Vs. Areen Ejaz Majeed*² and *Asif Abdul Sattar Khan Vs. The State of Maharashtra*³. I have gone through the same.

8. The record discloses that the prosecution has cited as many as 63 witnesses. The trial is yet to commence. Even the charge is not framed. Considering the over all circumstances, it is not likely that trial would be concluded at an early date.

¹ (2021) 3 SCC 713

² 2021 (4) Bom.C.R. (Cri.) 440

³ Criminal Bail Application No.1912/2021 decided on 25/6/2021.

9. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Karan Ramashish Vishwakarma, be released on bail in Crime No.58/2015 of Police Station Poynad, District Raigad, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.
- (iii) The Applicant shall furnish his residential address alongwith proof before the learned Special Judge.
- (iv) The Applicant shall undertake to remain present before the learned Special Judge during the course of trial, unless exempted.
- (v) The Applicant shall not directly or indirectly make any attempt to tamper with the prosecution evidence or witnesses.

C.V. BHADANG, J.