

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2013 OF 2021

Vijay Dagadu Pawar ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Swapnil Chopade a/w. Mr. A.N. Pange, for the Applicant.
Mrs. J.S. Lohakare, APP, for the State.

CORAM : N. J. JAMADAR, J.
DATE : JUNE 29, 2022

P.C.:

1. This is an application for pre-arrest bail in connection with C.R. No. 561 of 2019 registered with Daund police station, Pune for the offences punishable under sections 392 and 395 read with 34 of Indian Penal Code.

2. The indictment against the applicant is that on 6th November, 2019 at about 5.45 am while the first informant Appa Kadam and the witness Bharat Kadam had reached Daund railway station from Kolkata along with gold, the applicant and the co-accused Moseer Mulani, Prathmesh Bambhure, Abhijeet Chavan and Ganesh Pawar made them to board an Indica car bearing No. MH-14- DA 6444, and on the way to Kurkumbh assaulted the first informant and witness and on the point of knife, robbed them of the 10 kg gold biscuits tied

to their waist, mobile phone handset and the wallet. The accused allegedly threw away the mobile phone.

3. Apprehending arrest, the applicant preferred application for pre-arrest bail before the learned Sessions Judge. As the prayer was negatived, the applicant has preferred this application.

4. On 20th December, 2021 this Court was persuaded to direct that the applicant shall not be arrested on the condition that the applicant shall attend the concerned police station as and when called. The learned APP had sought time to collect the CDR of the applicant. The said interim protection has since been continued.

5. The learned counsel for the applicant submitted that the implication of the applicant in the instant case is sans any incredible material. The learned counsel for the applicant took the Court through the first information report. In the first information report, the first informant Appa Kadam had categorically asserted that there were four persons who robbed them. There was no mention about the fifth person. Yet, on the basis of the statement made by one of the co-accused, the applicant has been roped in.

6. I have carefully perused the allegations in the first information report. I find substance in the submission of the learned counsel for the applicant not for the only reason that the first informant had alleged that only four persons robbed him and the witness. It was not mere the number of persons about whose presence the first informant narrated. In the first information report, the first informant has attributed specific roles to each of those four persons. The place at which those four persons joined them, the role played by each of them during the course of the journey, the utterances made by them and the extortion on the point of knife by whom of them are specifically reported. To add to this, the first informant has given the description of each of those four persons with details of their features and the clothes they wore at the time of the occurrence.

7. In the aforesaid backdrop, the fact that the four persons came to be arrested and have since been released on bail, assumes significance. Substantial portion of the stolen property has allegedly been recovered from those person. The role attributed to the applicant is that of being the fifth of the robbers. Since the first informant did not advert to the presence of the fifth person, at all, I am persuaded to hold that a prima facie case for exercise of

discretion is made out.

8. Investigation is complete. Charge-sheet has been lodged. Hence, even otherwise, custodial interrogation of the applicant does not seem to be warranted.

Thus, the following order.

ORDER

- 1] The application stands allowed.
- 2] In the event of arrest in C.R. No. 561 of 2019 registered with Daund police station, Pune the applicant be released on bail on furnishing a P.R. bond in the sum of Rs. 30,000/- and one or two sureties in the like amount.
- 3] The applicant shall attend Daund police station on first Sunday of every month from 10 am to 1 pm for a period of six months.
- 4] The applicant shall not tamper with prosecution evidence and/or give threat or inducement to the prosecution witnesses.
- 5] The applicant shall regularly attend the proceedings before the jurisdictional Court.

(N. J. JAMADAR, J.)