

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 4051 OF 2021

Akhtar Anwar Raja Idrisi & Jonty .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Shubham Upadhyay for the applicant.
Mrs.A.A. Takalkar, APP for the State.
API Shri Sachin Gawde from DCB CID, Unit No.6 from Crime
Branch.

CORAM: BHARATI DANGRE, J.
DATED : 2nd AUGUST 2022

P.C:-

1 The applicant is charge-sheeted for the offence punishable u/s.392, 394, 397, 34 IPC, Section 4, 25 of the Arms Act, Section 37(1), 135 of the Maharashtra Police Act.

2 The charge-sheet is filed in C.R.No.10/2021 registered on 24/1/2021 and where four persons were arraigned as accused and the applicant being arraigned as accused no.1, who came to be arrested on 30/1/2021.

3 The complainant, one Bhanwarlal Jain has narrated about an incident which took place at 7.30 p.m on 24/1/2021

when he, along with his wife was walking on Tukaram Patil Road, at that time, two persons riding on a White Activa, were passing on the same road and one of the unknown person, snatched her mangalsutra (piece of jewellery). His wife shouted for help and he attempted to catch hold of the same person, who pushed him and they fled from the spot along with the mangalsutra. The description of the two persons, one who was riding the Activa and another was a pillion rider, is also given along with the description of the piece of jewellery which was alleged to be robbed. After seven days, the complainant recorded his supplementary statement, alleging that in the morning of 24/1/2021, at around 7'O clock when he along with his wife were returning from their morning stroll, two persons on Activa vehicle in the age group of 22 to 24, arrived at the spot and he state that the pillion rider got down from the vehicle and snatched the piece of jewellery which his wife was wearing. By improving his earlier version, he state that when his wife sought help, he ran behind the person and caught hold of him. He had a tiff with the said person as he was trying to take back the mangalsutra and at that time, he took out a scythe from the pocket of his red pant and showed it to him and his wife. It is also alleged that he gave a blow which landed on his left hand thumb, which started bleeding. He state that despite this, he held his scythe with his hand which fell to the ground and he threw it at the person who was trying to flee but, he missed the target and it fell on the ground. He narrated that he sustained an

injury of 1 x 0.2 cm on his left thumb and medical certificate to that effect was also produced on record.

4 The statement of the wife of the complainant is in sync with his statement which is also recorded on 1/2/2021.

The injury certificate issued on 24/1/2021 by the Shatabdi Hospital, Govandi, Mumbai, refer to the injury on the left thumb with the history of assault being given by chain snatchers (2) at Govandi.

5 The inconsistency in the version of the complainant and particularly, since he missed out an important aspect, being assault mounted on him and his wife for the purpose of robbing her of the mangalsutra is prominent. There is no reason why the complainant has failed to mention it, which he specifically highlighted in his statement recorded on 1/2/2021. No explanation is coming forth particularly when he has reported to the hospital on the very same day and reported about the incident.

In any case, this inconsistency will be appreciated at the time of the trial.

6 The learned APP state that the applicant has been identified in the Test Identification Parade and the Memorandum of Test Identification Parade placed on record, reveal that four accused persons were subjected to T.I. Parade and the complainant has identified the present applicant, but when asked,

on what basis, four persons are arraigned as accused, the learned APP state that the CCTV footage which has been compiled in the charge-sheet, refer to two other persons being present on the spot, who are present on a black colour motor scooter. In any case, there is no reference to any two persons by the complainant as his original version as well as the supplementary statement refer to only two persons.

Identification Parade do not attribute that the applicant is the person who has mounted the assault upon the complainant and his wife.

7 The learned APP has also invited my attention to the C.Rs registered against the present applicant and the learned counsel submit that C.R.Nos. 28, 29, 30 and 22 of 2021 which invoke Section 392 read with Section 34 of IPC and C.R.No.22 of 2021 which invoke Section 379 read with Section 34 IPC, according to the learned counsel, are registered subsequent to his arrest in the present C.R. with different police stations but they were transferred to the DCB Crime on the ground that they involve a similar nature of offence.

8 Considering the fact that the investigation is complete and charge-sheet is filed by compiling the material available against the present applicant and in the wake of the inconsistency in the version of the prosecution, the applicant deserve his release on bail, with a stipulation that on the applicant involving in a

similar offence, would entitle the prosecution to seek cancellation of bail. Hence, the following order :-

O R D E R

- (a) The Applicant – Akhtar Anwar Raja Idrisi in connection with C.R.No.21/2021 registered with Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence and if applicant involves in a similar offence, would entitle the prosecution to seek cancellation of bail.
- (c) On his release, the applicant shall furnish his contact number and temporary/permanent address, where he is likely to reside.
- (d) The applicant shall mark his attendance on every first Monday of the DCB CID, Crime Branch, Unit-6, Chembur, till framing of charge.

9 The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)