

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**CRIMINAL APPLICATION (BA) NO. 165 OF 2022**

**Aatish @ Aatesh Shalik Bhosale..Versus...State of Maharashtra**

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders or directions  
and Registrar's orders

Court's or Judge's orders

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Mr.PV. Navlani, Advocate for the applicants  
Ms. Shamsi Haider, APP for respondent/State

**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 03/03/2022**

1] Heard Mr. Navlani, learned counsel for the applicant and learned APP for the respondent/State.

2] The applicant is accused for the offence under Section 395 of the IPC in Crime No. 249/2021. The incident is dated 4.10.2021. The applicant has been arrested on 9.10.2021. The charge-sheet has been filed on 31.10.2021.

3] Mr. Navlani, learned counsel for the applicant submits that the applicant has been arrested merely on the basis of suspicion and there is absolutely nothing to indicate the involvement of the applicant in the alleged offence. He submits that even the CDR filed along with the charge-sheet does not indicate any involvement of the applicant in the alleged offence, nor any one has implicated him. He further submits that the absence of Test Identification parade is the

most telling circumstance to indicate the absence of any involvement of the applicant and he is therefore entitled to bail.

3] Learned APP opposes the application and submits that the involvement of the applicant is indicated from the CDR as well as the seizure of a chit in which the name of Subha Balaji Bhosale, who is already in jail in some other offence and the CCTV footage in front of nearby hotel in which the applicant is seen having some eatables with the co-accused and so also the statement of the owner of the hardware shop, who states that material which could be used for the purpose of robbery was purchased by the co-accused from his shop and the recovery of a bangle upon disclosure under Section 27 of the Evidence Act. She therefore submits that the application needs to be rejected.

4] The oral report states that a robbery had taken place in the house of the informant in the intervening night of 3.10.2021 and 4.10.2021 at around 1.00 a.m in the morning, in which about six persons are claimed to have entered into the house of Nilesh Rameshrao Sav at Marda, Tq. Tiwsa, Dist. Amrvati and have committed dacoity by taking away the gold ornaments and other valuables, considering which it was necessary for a T.I. parade to have been conducted to identify the accused who were involved in

the said offence, however the same for the reasons best known to the prosecution has not been done. The applicant has merely been arrested on the basis of suspicion of being involved in the alleged offence on the basis of CDR report which shows him in conversation with one of the co-accused. However, the copy of the conversation placed on record (pg 136 onwards) indicates that they are innocuous conversation and do not indicate any mention of any robbery or anything in that regard. The chit claimed to have been seized from the applicant bearing the name of Subha Balaji Bhosale is also of no significance as of now for linking the applicant to the alleged crime. The recovery u/s 27 of the Evidence Act at the behest of the accused is also a suspect for the reason that neither the informant nor any member of his family have been called upon to identify the bangle as belonging to the informant or any of his family member. The CCTV footage in front of the hotel merely indicates the applicant have snacks with one of the co-accused. Even the statement of the hardware shop owner is not sufficient to link the applicant with the crime, as there is no recovery neither any linkage as of now appears to have been established. Considering all these circumstances, in my considered opinion, a prima facie linkage necessary for indicating the involvement of the applicant in the aforesaid crime appears to be absent, considering which I do not see any reason to continue further incarceration of the applicant. The

application, therefore is allowed.

5] The applicant be released on bail in Crime No. 249/2021 for the offence under Section 395 of the I.P.C., on his furnishing a PR bond in the sum of Rs. 1,00,000/- and two solvent sureties in the like amount.

The applicant shall not tamper with the prosecution evidence and shall not in any manner influence the prosecution witnesses.

The applicant shall attend each and every date before the learned Sessions Court and shall ensure that the trial is not protracted on his count.

**JUDGE**

**Rvjalit**