

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

CRIMINAL APPLICATION (BA) NO. 276 OF 2022

Sanjay Bagan Bhosle and others

...Versus...

State of Maharashtra

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

Court's or Judge's orders

Mr. A.P.Tathod, Advocate for the applicants
Mr. A.R.Chutke, APP for respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 12/04/2022

Heard Mr. Tathod, learned counsel for the applicants and Mr. Chutke, learned APP for respondent/State.

2] The applicants have been arraigned for the offence punishable under Sections 394, 395 r/w Section 34 of the IPC in Crime No. 783/2021. The applicants are arrested on 11.11.2021. The incident is dated 10.11.2021 at 3.00 p.m. The charge-sheet has been filed on 5.2.2022.

3] Mr. Tathod, learned counsel for the applicants submits that the applicants have been falsely implicated, as the applicants had no connection with the alleged offence. He further submits that substantial recovery of around Rs.4,20,000/- has already been made, the charge-sheet has also been filed and therefore there is no need to continue the further incarceration of the applicants and they be released on

bail.

4] Learned APP submits that the involvement of the applicants is indicated from the statements of the complainant Abhijit Ganesh Dhanbar and Gaurav Sanjay Deshmukh, as well as the factum of recovery of major portion of the amount from the applicants, as well as the motor-cycle and mobile used for the offence. He further submits that in the Test Identification parade conducted, the complainant and his friend identified the applicant Nos. 1 and 2. On the contrary, the applicant Nos. 2 and 3 have criminal antecedents and therefore, the application needs to be rejected.

5] The genesis of the aforesaid crime is the call received by Gaurav Deshmukh, the friend of the complainant on 8.11.2021 from mobile no. 8263800271 (belonging to the applicant no.1), whereby he was intimated that half kg of gold was for sale for an amount of Rs. 5,00,000/- . Upon receiving the said information, the complainant expressed his willingness to acquire the same, as a result of which after further discussion with the person who had called, the complainant and his friend went on 10.11.2021 to Risod, where they were taken by an unknown person on the motor-cycle bearing No. CD Delux 5288 in the field opposite to Amardas Godown where the complainant and his friend were assaulted and robbed of the amount of Rs. 5,00,000/-. The aforesaid mobile number was kept on trace by the Cyber Cell,

whereupon its location being revealed at Village Antri Deshmukh, Tq. Mehkar, the police party apprehended the applicants and a sum of Rs. 94,000/- was recovered from applicant No.1, who also made a disclosure under Section 27 of the Evidence Act regarding the motor-cycle used in the offence and stick used for the assault. A sum of Rs. 1, 87,000/- plus a motor-cycle was recovered from the applicant no.2 Sunil and sum of Rs. 1,39,000/- and a mobile was recovered from the applicant no. 3 Raju. In the Test Identification parade (pages 88 to 91) the applicant no.1 and 2 have been identified by the complainant and his friend. That apart, Crime No. 55/2021, has been registered against the applicant Nos. 2 and 3 with the same Police Station under Section 420 of the IPC, in which a similar modus oppendi was adopted by the applicants in defrauding one Shaikh Multani Hyder Shaikh of the sum of Rs. 1,00,000/- on the pretext of selling him gold at a lesser price.

6] Considering the above position, in my considered opinion, I do not think that a case for bail is made out. The application for bail is rejected.

JUDGE

Rvjalit

