

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

BAIL APPLICATION NO. 1470 OF 2023

Abbas S/o Aslam Zaidi
Age: 35 years, Occu: Labour,
R/o: Near Bhaskar School,
Patil Nagar, Ambewali, Thane
Current Add. Near Shivaji Statue,
Lohgaon, Dist. Pune

... Applicant

Versus

The State of Maharashtra
Through Police Station Officer
Shivajinagar Police Station, Beed,
Tal & Dist. Beed

... Respondent

...

Mr. S. R. Zambare, Advocate for the Applicant
Mrs. P. V. Diggikar, APP for the Respondent/State

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 03.10.2023

PER COURT :

1. Heard the learned Advocate for the applicant and learned APP for the respondent/State.
2. By this application, the applicant seeks regular bail in connection with Crime No.32/2022 registered with Shivajinagar Police Station Tq. and Dist. Beed for the offences punishable under Sections 392, 395 r/w Section 34 of the Indian Penal Code [for short 'IPC'].
3. The investigation was set in motion on the basis of information given by one Vishaka Madhukar Chakre, who states that, on 19/01/2022, while she was proceeding from Takshashila Nagar area, she met with her friends. While she was talking with them, the motorcycle rider arrived at the spot and snatched her golden chain. The motorcycle

registration number was noted by one Prabhu Korde. Accordingly, she informed that, the unknown motorcycle riders have committed the offence. The applicant has been arrested in pursuance of the aforesaid crime on 06/04/2022. During the investigation, recovery is made from him and the charge-sheet has been filed.

4. Learned Advocate appearing for the applicant would submit that the applicant is behind the bars from 06/04/2022. The investigation in the matter is complete. The trial is likely to take its own course. He would submit that although Sections 395 and 392 of IPC are invoked, considering the nature of offence, none of the ingredients of such offences are present in the case. He would therefore urge to release the applicant on bail.
5. Learned APP vehemently opposes the application. She would submit that there is recovery from the applicant. The involvement of the applicant in the commission of crime can be seen from the material available in the charge-sheet. She would further submit that the applicant is a habitual offender so also as many as 29 offences are registered against him. The release of the applicant may hamper the smooth trial. Hence, she urges to reject the application.
6. Having considered the submissions advanced, apparently, there is evidence indicating the involvement of the applicant in the commission of crime. However, looking to the nature of allegation in the complaint as well as the evidence in the charge-sheet, Sections 395 so also Section 392 of IPC may not attract. From the contents of FIR, it is a case of snatching chain from the person of the informant. There is no allegation that, injury was caused to the informant or she was put under the threat in execution of crime. In that view of the matter, prima facie, at the most, the case of theft can be made out against the

applicant, which is punishable under Section 379 of IPC with imprisonment for three years. The applicant is behind the bars for almost one and half year. If the provisions of Section 436-A of IPC are taken into consideration, the applicant would be entitled for grant of bail. However, looking to the criminal antecedents against the applicant, some stringent conditions are required to be imposed. In that view of the matter, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i)** Bail Application is allowed.
- (ii)** The applicant, namely, Abbas S/o Aslam Zaidi be released on bail in connection with Crime No.32/2022 registered with Shivajinagar Police Station Tq. and Dist. Beed for the offences punishable under Sections 392, 395 r/w Section 34 of the IPC on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand only) on the following conditions:
 - (a)** The applicant shall not tamper with the prosecution evidence/witnesses in any manner.
 - (b)** He shall not indulge himself in the similar offence.
 - (c)** He shall furnish the details of his residential address and contact numbers to the concerned police station and update the same time to time.
 - (d)** He shall attend each and every effective dates before the Sessions Court.
 - (e)** He shall not leave State of Maharashtra without intimation to the concern Police Station in whose jurisdiction he resides.
- (iii)** Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR, J.]