

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.149 OF 2023

Mr. Nitin Dhondu Ghanekar	... Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Prashant Pawar a/w. Mr. Amit Diwale for the Applicant.
Mr. S.H. Yadav, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 10th JULY, 2023.

P. C. :-

. This is an Application under section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in Sessions Case No.01/2020 pending on the file of learned Sessions Judge, Ratnagiri. The said case arises from C.R.No.165/2019 registered with Ratnagiri Rural Police Station, Ratnagiri for offences punishable under sections 392 and 397 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by

Jagdish Kinjale, the son of the victim – Govind Kinjale. The facts narrated in the FIR reveal that on 22/10/2019, at about 09:00 a.m., the complainant had dropped his father – Govind at Primary Health Center for dog bite treatment. Later in the afternoon, the complainant received a phone call on the mobile of the victim. The caller Sunil Ghanekar informed him that the victim was lying in injured condition near a temple. The complainant rushed to the spot and with the help of the villagers, shifted the victim to the Civil Hospital, Ratnagiri. Since the condition of the victim deteriorated, he was shifted to Nirmal Hospital and admitted in the ICU. The victim told him that an unknown person had taken him to the forest area under the garb of engaging his services to clean the mango-cashew orchard. He was joined by two-three other persons, who assaulted him and robbed his valuables. The Complainant lodged the FIR and based on the information given by the victim, perusal of which crime came to be registered.

4. The statement of the victim reveals that while he was at the Primary Health Center, an unknown person struck up a conversation with him. In the course of the conversation, the said unknown person told him that he was looking for some workers to clean his mango-

cashew orchard. The victim agreed to do the work and the said person noted down his name and phone number in his pocket diary. Later on the same day, the victim met the said person in the market. He insisted that the victim should see the orchard. They went to Narbe Dattawaati by an auto rickshaw and thereafter walked 2-3 kms towards forest area. The said person went behind the bushes and suddenly two-three persons came from behind and hit him with stones. He fell unconscious and when regained conscious, found his chain, wallet with cash and mobile phone were stolen. In his supplementary statement, he has implicated the only person who had taken him to the forest.

5. The medical records reveal that the victim had sustained *brain concussion, left fronto-temporal contusion, fracture mandible, 2cm CLW over occipital region, 2cm CLW over left FP region, 3cm CLW over left parietal region.*

6. In the course of the investigation, the Applicant came to be arrested on 08/11/2019. He has been identified by the victim in the Identification Parade held on 19/12/2019. The statement of other witnesses also prima facie show the complicity of the Applicant in commission of the crime. The records also prima facie indicate that the

Applicant had sold the stolen gold chain to one gold smith who melted the same. The melted gold has been recovered and the Applicant has been identified by the witness. The Applicant and his mother-in-law are also seen in the CCTV footage captured in the camera installed in the jewelry shop. The material on record prima facie shows the involvement of the Applicant in commission of the crime. The offence is of serious nature.

7. Considering the gravity of the offence and the material in support thereof, I am not inclined to exercise discretion under section 439 of Cr.PC. Hence, the Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)