

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.200 OF 2023**

Vilas Hanumant Pawar @ Mama ..Applicant
VS.
The State of Maharashtra ..Respondent

Adv. Prashant Thombre for the Applicant.
Mr. S. V. Gavand, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 20, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** The applicant is arrested on 11/11/2018 in connection with C.R. No.190 of 2018 registered with N. M. Joshi Marg Police Station, Mumbai. Subsequently investigation was transferred to DCB, CID, Unit-III, Mumbai vide C.R. No.78 of 2018 for the offence punishable under Sections 394, 397, 120-B read with 34 of the Indian Penal Code, 1860.
- 3.** By an order dated 01/12/2022 this Court in Criminal Bail Application No.2735 of 2022 granted bail to the accused No.1-Suresh Ashok Doke. The relevant portion of the order reads thus :-

"1. This is second application for bail before this Court. The previous application was rejected by this Court vide order dated 11th March 2020. In view of the order dated 30th September 2022 passed by the co-ordinate Bench, the application is listed before me, considering the fact that previous application was rejected by me by aforesaid order dated 11th March 2020.

2. The applicant is arrested on 11th November 2018 in connection with C.R no.190 of 2018 registered with N.M. Joshi Marg Police Station, Mumbai. Subsequently investigation was transferred to DCB, CID, Unit-III, Mumbai vide C.R No.78 of 2018 for offences under Sections 394, 397, 34 and 120-B of Indian Penal Code.

3. The case of the prosecution is that the complainant was working with K.S.V Global Logistic for about 10 years. It is alleged that the incident took place on 27th October, 2018 between 8.15 p.m. and 8.30 p.m. when he was carrying a parcel containing jewellery worth Rs.1,33,65,988/-. He has stated that when he reached Mathuradas Mill Compound, suddenly one unknown person came behind him, held him and another unknown person threw some thing in his eyes, as a result of which, his eyes started burning. One of the unknown person used sharp weapon and cut the belt of the bag which he was carrying on his back. In the said incident, his left hand thumb and palm were injured. According to the complainant, when he looked back, he realized that the two unknown persons had taken his bag, which he was carrying on his back. Pursuant thereto, F.I.R was lodged against two unknown persons. During the course of investigation, four persons were arrested including the applicant. On 17th November, 2018, apart from the applicant's mobile, two gold bangles were recovered from the applicant's house. The said gold bangles have been identified by the witnesses. The evidence of call record shows that the applicant was in the vicinity when the alleged incident took place and was continuously in touch with the co-accused pre and post incident. The statements of Amol Doke brother of co-accused Suresh Doke also shows that the applicant his brother and other co-accused would regularly meet each other prior to the incident. There is recovery of gold ornaments at the instance of the applicant worth Rs. 34 lakhs. There is evidence

of C.D.R. and statements of witnesses.

4. Learned advocate for applicant submitted that applicant is being impleaded in this case as conspirator. There is no evidence to support the fact that applicant has connived with the co-accused. There are discrepancies in the recovery at the instance of applicant. Applicant is in custody for a period of four years. Although charge was framed on 21st October 2021, the prosecution has not examined any witness. There are no criminal antecedents against applicant.

5. Learned APP submitted that there is sufficient evidence to show complicity of applicant in the crime. There is recovery of ornaments worth Rs.34 lakh from the applicant. The CDR record supports prosecution case. The prosecution proposes to examine around 35 witnesses. At the most, the trial can be expedited. The application preferred by the co-accused Vilas Pawar @ Mama was rejected by order dated 3rd October 2019.

6. The factual matrix of the matter would indicate that prosecution case against applicant is that the applicant had all the information about victim carrying of gold. The applicant had allegedly acted as conspirator with the co-accused. There is recovery from the applicant. It is pertinent to note that applicant is in custody for a period of four years. There is no progress in the trial. The applicant was not allegedly involved in snatching the bag containing ornaments. The prosecution proposes to examine about 35 witnesses. It is not clear as to when the trial would be over. Although charge was framed a year back, there is no progress in trial. There are no criminal antecedents against applicant. Considering these circumstances, bail can be granted on certain conditions."

4. So far as the applicant is concerned the ornaments worth of Rs.7,01,552/- were recovered. On the ground of parity with co-accused No.1-Suresh Ashok Doke, even the applicant can be released on bail. I am informed that the

trial Court granted bail to the accused No.2-Mahindra Chaudhari.

5. Hence, the following order :-

ORDER

- (a) Bail Application is allowed and disposed of;
- (b) Applicant is directed to be released on bail in connection with C.R. No.190 of 2018 registered with N. M. Joshi Marg Police Station, Mumbai and subsequently investigated by DCB, CID, Unit-III, Mumbai vide C.R. No.78 of 2018 on executing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (c) The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of six weeks in lieu of sureties;
- (d) The applicant shall report DCB, CID, Unit-III, Mumbai once in three months on every first Saturday between 11.00 a.m. and 1.00 p.m. till further orders;
- (e) The applicant shall attend proceedings before

Trial Court regularly on the dates of hearing, unless exempted by Trial Court for some reason;

(f) The applicant shall not tamper with evidence.

(M. S. KARNIK, J.)