

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

BAIL APPLICATION NO.1531 OF 2022

Jitesh @ Jitya Ashok Kale

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Sachin M. Bhavar for the Applicant.

Mr. R.M. Pethe, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 2nd AUGUST, 2023.

P.C.:-

1. The Applicant, who is facing trial in Special MCOC Case No.21 of 2019 pending on the file of learned Special Judge, Barshi, has filed this application under Section 439 of the Cr.P.C. for enlargement on bail. Said case arises from C.R. No.738 of 2018 registered with Karmala Police Station, District-Solapur (rural), for the offences punishable under Sections 342, 395 and 397 of the IPC.

2. Heard Mr. Sachin Bhavar, learned counsel for the Applicant and Mr. R.M. Pethe, learned APP for the Respondent -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 Adikabai Jagdale. The facts narrated in the FIR prima facie reveal that on 19/09/2018 about 6 unknown persons between age group 25 to 30 years entered the house of the First Informant armed with sword, iron rod, sticks, axes, etc. They committed theft of gold and mobile phone, total worth Rs,2,48,000/-. Provisions of the Maharashtra Control of Organised Crime Act, 1999 were also invoked on the ground that the Applicant herein is a gang leader. It is stated that three other charge-sheets were filed against the Applicant and that he has been acquitted in all these three crimes.

4. Be that as it may, the records reveal that the First Informant was referred for medical examination and she had sustained injury, which was fresh and less than 24 hours of age. The Applicant and the other co-accused were arrested in the course of the investigation. The records prima facie reveal that the gold ornaments belonging to the First Informant have been recovered pursuant to the disclosure statement made by the Applicant herein. The said gold ornaments have been identified by the First Informant. Furthermore, the First Informant has identified the Applicant in the ID parade. The records prima facie show the complicity

of the Applicant in the commission of the crime of decoity.

5. Considering the nature of the accusations and the material in support thereof, I am not inclined to exercise discretion under Section 439 of the Cr.P.C. Hence, the application is dismissed.

6. The Applicant is in custody since 2018. It is stated that charge is not yet framed. The prosecution intends to examine 10 to 12 witnesses. Hence, the Trial Court to frame charge and conclude the trial as expeditiously as possible and in any event within a period of one year.

(SMT. ANUJA PRABHUDESSAI, J.)