

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3699 OF 2022

Rajeshkumar Mohanlal Saroj

... Applicant

V/s.

State of Maharashtra

... Respondent

.....
Mr. Ajay Bhise a/w. Kanishk Waghware i/b. Mr. Akash Kavade,
Advocate for Applicant.

Ms. Anamika Malhotra, APP for Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 12 OCTOBER, 2023

P C:-

1. By this Application, Applicant is seeking bail in C.R.No. 993 of 2020 registered with Kondhwa Police Station, Pune for the offence punishable under Sections 457, 380, 413, 411 read with 34 of Indian Penal Code, 1860 (for short "IPC").

2. It is the prosecution's case that on 24.08.2020, theft was committed in the flat of Raj Khilnani and Naila Razvi bearing flat Nos. 1001 and 1202 by unknown persons by breaking open the door locks of the said flats. It is alleged that there was total theft around Rs.1,34,95,600/-. In investigation police arrested co-accused and

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Applicant in connection with the said crime. It is alleged that Applicant had taken the co-accused in his car to the said building. Applicant remained in the car whereas co-accused went in the building and committed theft.

3. It is contention of learned Counsel for the Applicant that Applicant has been falsely implicated in this case. The role attributed to the Applicant that he had carried co-accused to the building where theft was committed. Applicant was sitting in his car, he had not gone in the said building. There is no involvement of the Applicant in the said crime.

4. Learned counsel further submitted that there was theft of gold ornaments but gold nuggets were recovered at the instance of Applicant. Applicant is behind bar more than two years and three months. Hence, requested to allow the Application.

5. It is the contention of learned APP that Applicant in his car carried all the co-accused towards the building where theft has been committed. There is recovery at the instance of Applicant. Applicant has played main role in the said crime. Though Applicant was not present at the actual incident spot but he took all the co-accused towards the building. It shows *prima facie* case against the Applicant. Hence, requested to reject the Application.

6. I have heard both the learned Counsel. Perused the FIR and charge-sheet. The role attributed to the Applicant that he carried the co-accused towards the building in his car where theft has been committed. It is alleged that at the time of incident of theft Applicant was sitting in his car. Two gold nuggets have been recovered at the instance of Applicant. In CCTV footage filed along with charge-sheet though car is visible, Applicant's presence has not been captured. Applicant is behind the bar more than two years. Investigation is completed and charge-sheet has been filed.

7. Considering the incriminating material placed on record against the Applicant, I am inclined to allow the Application.

8. In view of the above, I pass following Order :-

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 993 of 2020 registered with Kondhwa Police Station, Pune, on executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.

- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

9. The Application is allowed in the aforesaid terms and is accordingly disposed off.

10. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

11. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)