

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3661 OF 2022**

Pankaj Rupnarayan MishraApplicant

Versus

The State of Maharashtra through Samta Nagar Police Station. ...Respondent

Mr. Prashant Pandey with Mr. Ashok Dhanuka, Ms. Irfan Unwala, Mr. Dinseh Jadhvani and Mr. Ashish Jain i/b. W3Legal LLP, Advocates for the Applicant.

Mr. M. G. Patil, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 24th AUGUST, 2023.

P.C. :

1. Applicant is seeking bail. Applicant is an accused in C.R.No. 820 of 2021 registered with Samta Nagar Police Station, for the offences punishable under Sections 395, 341, 427, 504, 506 (2) of Indian Penal Code (for short "IPC") lodged at the instance of first informant - Sandeep Gujar. Applicant is in jail since the date of his arrest i.e. 20th December 2021.

2. It is prosecution case that in November 2021, complainant – Sandeep Gujar was in need of money for his business. So he contacted his friend - Mr. Narsing Vyas for the same. Mr. Vyas agreed to give money to the complainant, he told his friend – Mr. Anilkumar

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Patel to give Rs.35,00,000/- to the complainant. In order to collect the aforesaid amount, the complainant with his friend – Mr. Pintu Gujar went to Diamond Market, Malad East, at around 3.00 p.m.. After reaching Diamond Market, the complainant collected Rs.35,00,000/-, kept it in blue carry bag and kept it on the backseat of his car and left at around 5.00 p.m.. At about 5.15 p.m., when the complainant reached a bridge opposite to Times of India, Western Express Highway, Kandivali (East), Mumbai, two unknown persons riding a motorcycle came from the right-hand side of the complainant's car and stopped their bike in front of the complainant's car. Subsequently, two more unknown persons riding another motorcycle came from the left-hand side of the complainant and they stopped their bike in front of the complainant's car. All the four unknown persons from both the sides came near the complainant's car and surrounded him from both the sides. Thereafter, one unknown person who was standing on the right-hand side of the complainant was holding an iron rod in his hand and he smashed the complainant's vehicle with the said rod and abused and threatened the complainant. The complainant and his friend were dead scarred, due to which, they did not open the car windows. Subsequently another motorcycle came to the said spot on which two more unknown persons were riding. One of them had an iron rod and they came from right-side of the complainant's car and started

smashing the window where the cash was kept. They broke the glass and took out the cash and ran away.

On the basis of complaint of the complainant, Police registered FIR against six unknown motorcycle riders. During investigation police arrested all six accused. An amount of Rs.11,00,000/- was recovered on the disclosure statement of applicant under Section 27 of the Indian Evidence Act.

3. It is contention of learned counsel for applicant that the co-accused from whom the amount of Rs.30,000/- was recovered is released on bail by the trial Court. Moreover, complainant has given no objection for granting bail to applicant before the trial Court but it was not considered by the trial Court. Learned counsel further submitted that applicant has not used any force or weapon while taking the amount from the car of the complainant. Hence, requested to allow the application.

4. It is contention of learned APP that the incident had happened on the road in broad daylight. An amount of Rs.11,00,000/- is recovered at the instance of applicant. This is an huge amount. If applicant is released on bail, he may influence prosecution witnesses and he may abscond and trial may be delayed. Though, no objection is given by the complainant, it may not be a ground to grant bail to applicant. Hence, requested to dismiss the application.

5. I have heard both learned counsel.

6. Admittedly, co-accused from whom the amount of Rs.30,000/- is recovered is released on bail by the trial Court. While committing offence, applicant had not used any weapon to rob the amount. The complainant has filed an affidavit before the trial Court stating that he has no grievance against applicant and he does not wish to continue the prosecution against applicant. As the investigation is completed, the amount robbed from the car of the complainant is recovered, charge-sheet is filed and moreover, the complainant has filed affidavit stating that he has no grievance against applicant and he does not wish to prosecute the case.

7. In view of above, I pass following order :

ORDER

- (i) Applicant - Pankaj Rupnarayan Mishra be enlarged on bail in C.R.No. 820 of 2021 registered with Samta Nagar Police Station, for the offences punishable under Sections 395, 341, 427, 504, 506 (2) of Indian Penal Code, 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 Saturday between 11.00 a.m. to 2.00 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.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

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

(SHIVKUMAR DIGE, J.)