

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

BAIL APPLICATION NO.3611 OF 2022

Shoyeb Haiderali Ansari

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Ms Sonali R. Chavan i/b. Mr. Uday Warunjikar for the Applicant.

Mr. H.J. Dedhia, APP for the Respondent -State.

Mr. Suraj Bondre, PI, V.P. Road, Police Station, Girgaon, Mumbai.

CORAM: G.A. SANAP, J.

DATE : 18th DECEMBER, 2023.

P.C.:-

1. The Applicant, who is accused No.4 in C.R. No.297 of 2022 registered with V.P. Road Police Station, Mumbai, for the offences punishable under Sections 394, 397, 504 and 506(2) r/w 120 B of the Indian Penal Code, 1860, has made this application for bail.

2. Learned Advocate for the accused submitted that save and except recovery of motor bike, there is no other evidence against this accused to establish his complicity in this crime. Learned Advocate took me through the record and pointed out that image of

the accused No.4 captured in the CCTV Footage indicates that he did not play any role in the commission of the crime. The learned Advocate submitted that the co-accused -Madhukar Thorat (accused No.1), Santosh Khomane (accused No.3) and Harshwardhan Shahu Ghorpade (accused No.7) attributed with more serious role, have been granted bail. Learned Advocate further submitted that at the instance of accused No.3-Santosh Khomane, 430 gm gold ornaments were recovered. Therefore ground of parity is available to accused No.4. Learned Advocate submitted that accused No.4 is ready to abide by the conditions that may be imposed by this Court.

3. Learned APP submitted that 1 kg gold is yet to be recovered. It is pointed out that investigation is in progress. Learned APP submitted that if the accused No.4 is enlarged on bail then the possibility of tampering with the prosecution evidence by threatening the prosecution witnesses cannot be ruled out.

4. It is the case of the prosecution that the accused persons had hatched conspiracy to commit this crime. The Informant, who is the employee of M/s. Jayantilal Pravinkumar Company, had

transported gold jewelry from Ahmedabad to Mumbai. It is stated that when he came near Dagina Bazar, Mumba Devi, he met one person. It is stated that when he was about to enter the jewelry shop, at that time two accused persons snatched the bag containing gold ornaments from the Informant.

5. The investigation revealed that the Informant was carrying 1 kg 700 gm gold. Out of this gold 700 gm gold has been recovered. It is the case of the prosecution that 430 gm gold has been recovered at the instance of accused No.3. There is no recovery of gold or gold ornaments at the instance of accused No.4. According to the prosecution motor bike recovered at the instance of accused No.4 was used at the time of commission of the crime. It is seen that presence of accused No.1-Madhukar has been captured in CCTV footage. The accused No.4 is also seen around the spot in a CCTV footage. In this case accused No.4 was not involved in the act of snatching the bag containing gold. Some gold was recovered at the instance of accused No.3-Santosh. In my view, by applying any standard, role attributed to Santosh is more serious than the role attributed to accused No.4. On the ground of parity the bail cannot

be denied to the accused No.4. Accordingly, I proceed to pass following order:-

ORDER

- (i) The bail application is allowed.
- (ii) The Applicant/accused No.4-Shoyeb Haiderali Ansari, be released on bail in C.R. No.297 of 2022 registered with V.P. Road Police Station, Mumbai, for the offences punishable under Sections 394, 397, 504 and 506(2) r/w 120 B of the IPC, on his furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one or more local sureties in the like amount.
- (iii) The Applicant shall attend the investigating officer of V.P. Road Police Station once in a month every first Monday of the month between 11.00 a.m. to 1.00 p.m.
- (iv) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so

as to dissuade him from disclosing the facts to Court or any police officer. The Applicant shall not tamper with evidence.

(v) On being released on bail, the Applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) It is informed that the Applicant is a resident of Pune. Except for attending the trial and for the purpose of reporting to the investigating officer, the Applicant shall not enter the Mumbai/Mumbai Suburban District after being released on bail, till the trial concludes.

(vii) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. It is made clear that observations made herein above be construed as expression of opinion only for the purpose of granting

bail and the same shall not in any way influence the trial in other proceedings.

7. The application stands disposed of in above terms.

(G.A. SANAP, J.)