

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

CRIMINAL APPLICATION (BA) NO. 79/2023

Ashish s/o Vinod Tupat

.. Applicant

versus

The State of Maharashtra

Th: Its PSO PS Khamgaon (Rural) Dist. Buldana.

.. Respondent

.....
Mr. R.R. Gaur, Advocate (appointed) for the applicant

Mr.A.M. Kadukar, APP for Respondent
.....

CORAM: ANIL L. PANSARE, J.

DATED : 20th February, 2023.

PC:

Heard both sides.

2. This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 28.08.2022 in Crime No. 277/2022 for the offences punishable under Sections 395, 394, 120-B, 411, 413 of the Indian Penal Code registered at Police Station, Khamgaon (Rural) Dist. Khamgaon.

3. Briefly stated, the case of the prosecution is that on 09.08.2022, some unknown persons have committed dacoity. According to the prosecution, there are in all seven accused persons, out of which four accused have been arrested. One is a minor and two are absconding. According to the prosecution, the informant is doing the business of jewellery. He was returning back from his shop with a bag containing silver worth Rs.1,48,500/-. At that time, seven unknown persons intercepted him and snatched the bag. They fled in one car, the details of the car are not known.

4. The learned counsel for the applicant submits that two co-accused namely, Mohammad Danesh Mohd. Jikar and Mangesh Thakre, have already been released on bail by the learned Sessions Court. However, the application of the present applicant came to be rejected on the count that the investigation is at initial stage and the test identification parade is not yet completed.

5. The learned counsel for the applicant submits that the test identification parade has been now conducted in which the informant has not identified the applicant. The learned APP would fairly admit such status.

6. Thus, there is absolutely no admissible evidence against the applicant. The applicant is behind the bars since 17.11.2022. The charge-sheet has been filed. The charge has not yet been framed and it will take some time to commence and conclude the trial. When enquired, learned Advocate for the applicant states that there are no criminal antecedents against the applicant. He is residing at the address given for last so many years. In view of the above and considering the nature of evidence against the applicant, I am of the view that no fruitful purpose will be served by keeping him behind the bars.

7. Needless to mention, that the observations made hereinabove are for the purpose of deciding this Application only and the trial Court shall not get influenced by it.

8. Hence, the following order :

ORDER

- (i) The Application is allowed.
- (ii) The applicant-Ashish Vinod Tupat, be released on bail, in connection with Crime No.277/2022 registered with Police Station Khamgaon (Rural),Dist.Buldana for the offences punishable under Sections 395, 394, 120B, 411, 413 of the Indian Penal Code, on he furnishing PR. bond in the sum of Rs. 25,000/- with one surety in the like amount.
- (iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number (s) to the Investigating officer and the Court concerned, and shall not change the residence till the final disposal of the case.
- (iv) The applicant shall cooperate in the investigation and shall make himself available for interrogation as and when required.
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer.
- (vi) The applicant shall maintain law and order.
- (vii) In case of breach of any conditions, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The professional fees of Mr. R.R.Gaur, learned Advocate (appointed) for the applicant be quantified and paid as per Rules.

The Application is disposed of in the above terms.

[ANIL L. PANSARE, J.]