

Sayali Upasani

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

BAIL APPLICATION NO.- 384 OF 2024

Mahendra Lahu more

... Applicant

Vs.

State of Maharashtra

...Respondent

**SAYALI
DEEPAK
UPASANI**

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by SAYALI
DEEPAK
UPASANI
Date: 2024.05.04
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Mr. Alure Mohd. Kasim with Ms. Roshni Khan, for Applicant.

Mr. S. R. Agarkar, APP for State/Respondent.

Mr. Jagdish More, PSI, Andheri Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 30th APRIL, 2024.

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) This is an application for bail in connection with C.R. No.911 of 2021 registered with Andheri Police Station for the offences punishable under Sections 120B, 379, 397 read with Section 34 of the Indian Penal Code, 1860.
- 3) At the outset, the learned Counsel for the applicant submitted that out of seven accused, five accused have been released on bail. Attention of the court is invited to an order passed by this Court in BA No. 4175 of

2023, dated 19th January, 2024, whereby the co-accused Amin Mohammed Shaikh has been released on bail and the order dated 9th February, 2024 in BA No. 2589 of 2023 whereby the co-accused Shashikant @ Babubhai Chandrakant Kolwalkar has been released on bail.

4) The learned Counsel for the applicant submitted that nothing has been recovered at the instance of the applicant. While releasing co-accused Shashikant Kolwalkar, this court had, inter alia, observed as under:-

“10... Prima facie, it appears that the first informant had initially lodged a report of theft by an unknown person, while he was travelling in a bus. The allegations of robbery appeared to have been made after about 10 days of the alleged occurrence. Prima facie, the aspect of delay in making the allegations of robbery bears upon the veracity of the claim of first informant and would, thus, be a matter for trial.”

5) The said co-accused and the other accused were released on bail, though there was recovery at the instance of those co-accused, as the Court was of the view that the question as to whether the property which has been recovered at the instance of those co-accused formed part of the property of which the first informant was allegedly robbed of would be a matter for adjudication at the trial.

6) The applicant has been in custody since 28th July, 2021. it is very unlikely that the trial can be concluded in the near future. Therefore,

having regard to the period of incarceration as well as the peculiar facts of the case, I am inclined to exercise discretion in favour of the applicant.

7) Hence, the following order:-

: ORDER :

- (i) The application stands allowed.
- (ii) The applicant be released on bail in C.R. No.911 of 2021 registered with Andheri Police Station for the offences punishable under Sections 120B, 379, 397 read with Section 34 of the Indian Penal Code, 1860, on furnishing a PR. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the learned trial Court.
- (iii) The applicant shall mark his presence at Juhu Police Station, on the first Monday of every month between 10.00 am to 12.00 noon for a period of two years or till conclusion of trial, whichever is earlier.
- (iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial court shall not be influenced by any of the observations made hereinabove.

[N. J. JAMADAR, J.]