

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.730 OF 2024

Samir Mohammed Mukram Shaikh Applicant

V/s.

The State of Maharashtra Respondent

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Ms.Alisha Parekh a/w Mr.Taraq Sayed, Ms.Ashwini Achani,
Mr.Devashish, Ms.Bhumika and Mr.Aditya, for the Applicant.
Ms.Shilpa G. Talhar, APP, for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 3rd MAY 2024

P.C:-

. By this Application, Applicant is seeking bail in
C.R.No. 142 of 2021 registered with Malad Police Station,
Mumbai for the offence punishable under Sections 392 read with
34 of Indian Penal Code (for short "IPC") and Sections 3(1)(ii),
3(2), 3(4) of Maharashtra Control Organized Crime (for short
"MCOC Act").

2. It is the prosecution's case that on 27th March 2021,
after attending her relatives, when informant was returning by

rickshaw at around 11:10 to 11:15 p.m., two motorcyclists approached near the rickshaw. The pillion-rider grabbed the purse of informant and was pulling it forcefully inspite of informant's protest. He succeeded in snatching the purse as it handle was cut down. The motorcyclists then fled away with the purse of informant. It is alleged that at the time of incident Applicant was riding bike.

3. It is the contention of learned Counsel for the Applicant that Applicant is behind the bar for more than three years and one month. The police have applied Section 392 of I.P.C. against the Applicant which is not proper. At the most the act of the Applicant falls under Section 379 of IPC. As Applicant had not threatened or caused voluntarily hurt or not used any weapon while committing theft, learned Counsel further submitted that the act of Applicant does not fall under continuation of unlawful activity, hence MCOC Act would not be applicable. The learned counsel further submit that at the time of the incident the Applicant was riding the motorcycle. This Court has released the Accused-Fahim Shaikh on bail, who

had snatched the purse of the Complainant. Hence, the Applicant is entitled for bail on the ground of parity.

4. It is contention of learned APP that the Applicant is habitual offender. He has antecedents. The Applicant was riding motorcycle at the time of the incident. The co-accused had tried to snatch the purse from the hands of complainant when she was sitting in rickshaw. The rickshaw was moving while snatching the purse, hurt/injury may have been caused to the complainant hence Section 392 of IPC is applied against the Applicant. There is *prima facie* case against the Applicant. Hence, requested to reject the Application.

5. I have heard both the learned Counsel. Perused the FIR and charge-sheet.

6. The allegations against the Applicant are that he was riding motorcycle whereas pillion rider snatched the purse of the Complainant. Other accused has been released on bail. Hence, Applicant is entitled for bail on the ground of parity, and I pass following Order:

ORDER

(i) Applicant-Samir Mohammed Mukram Shaikh

be enlarged on bail in C.R.No. 142 of 2021 registered with Malad Police Station, Mumbai, 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.

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

8. 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.

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

(SHIVKUMAR DIGE, J.)