

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 789 OF 2024**

Sushil A. Magare

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Siddharth Pimpale a/w. Mr. Premal Krishnan, Mr. Nadeem S., Mr. Prashant Bothre i/b PAN India Legal Services LLP for the Applicant.

Ms K.T. Hivarale, APP for the Respondent/State.

**CORAM : N. R. BORKAR, J.
DATE : 15 MARCH 2024.**

PC:-

1. This is an application under Section 439 of Code of Criminal Procedure for bail.

2. The applicant came to be arrested in Crime No.368 of 2019 registered at Kothrud Police Station, Pune for the offences punishable under Sections 397, 420, 468, 471 read with 34 of the Indian Penal Code (IPC), Sections 3, 25 and 27 of the Arms Act and Section 37(1), 37(3) read with 135 of the Maharashtra Police Act.

3. It is the case of the prosecution that on the date of incident, which took place on 24 November 2019 at about 4.30 p.m., the present applicant along with other co-accused entered into jewellery shop namely Pethe Jewellers with firearm and committed robbery of gold ornaments worth Rs.10,19,600/-.

4. The learned counsel for the applicant has drawn my attention to the order passed by this Court dated 15 March 2023 in Bail Application No.3292 of 2021 filed by the applicant.

The said order reads thus:

“1. This is an application under Section 439 of Code of Criminal Procedure for bail.

2. Considering the fact that the applicant is in jail for more than 3 and ½ years, the trial Court shall endeavour to conclude the trial, as early as possible. In case, the trial is not concluded within a period of six months from the date of receipt of copy of this order, the applicant is at liberty to file fresh application for bail.

3. With aforesaid directions, the Bail Application is disposed of.”

5. The learned counsel for the applicant submits that inspite of above order there is no progress in the trial and only charge has been framed. It is submitted that the applicant is in jail for more than 4 years. It is thus submitted that considering the overall facts and circumstances, the applicant may be released on bail.

6. On the other hand, learned APP for the respondent / State submits that the applicant is involved in the serious offence of robbery. It is submitted that there is sufficient evidence to connect the applicant with the alleged crime. It is submitted that considering the nature of offence, the applicant may not be released on bail.

7. In spite of the order passed before one year to conclude the trial as early as possible, there is no substantial progress in the trial. The applicant is in jail for more than 4 years. Considering the overall facts and circumstances, I am inclined to release the applicant on bail on certain conditions. In the result, following order is passed:

ORDER

A] The Application is allowed.

B] The applicant be released on bail in Crime No.368 of 2019 registered at Kothrud Police Station, Pune for the offences punishable under Sections 397, 420, 468, 471 read with 34 of the IPC, Sections 3, 25 and 27 of the Arms Act and Section 37(1), 37(3) read with 135 of the Maharashtra Police Act on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

C] The 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 conclusion of trial.

D] Prosecution is at liberty to file an application for cancellation of bail in case aforesaid condition is flouted.

(N.R. BORKAR, J.)