

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

**CRIMINAL BAIL APPLICATION NO.924 OF 2024**

Komal Nitin Gautam

...Applicant

*Versus*

The State of Maharashtra

...Respondent

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Mr. Bhushan Raut a/w Mr. Shantanu Malshikare, Advocates, for the Applicant.

Ms. S.S. Kaushik, APP, for Respondent- State.

API, Nagnath G. Patil, Supa Police Station- present.

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**CORAM : MADHAV J. JAMDAR, J.**

**DATED : 9th May 2024**

**P.C.**

1. Heard Mr. Raut, learned Counsel for the Applicant and Ms. Kaushik, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:

|    |                                |                                                                                       |
|----|--------------------------------|---------------------------------------------------------------------------------------|
| 1. | C.R. No.                       | 123 of 2023                                                                           |
| 2. | Date of registration of F.I.R. | 1 <sup>st</sup> April 2023                                                            |
| 3. | Name of Police Station         | Vadgaon Nimbalkar, Pune Rural<br>(presently-Supa Police Station)                      |
| 4. | Sections invoked               | 394, 397, 398, 342 34 of <i>I.P.C., 1860</i> ;<br>3 and 24 of <i>Arms Act, 1959</i> . |
| 5. | Date of incident               | 31 <sup>st</sup> March 2023                                                           |
| 6. | Date of arrest                 | 2 <sup>nd</sup> April 2023                                                            |
| 7. | Date of filing Charge-sheet    | July 2023                                                                             |

3. As per the prosecution case, there are 5 Accused. These 5 Accused and others had hired two rooms bearing Nos.205 and 206 in the Royal Blue Hotel in Pune. The present Applicant is Accused No.5. These 5 Accused discussed their plan to commit a robbery. As per the prosecution case, Accused Nos.1 to 4 left the said rooms and committed the offence at Mahalaxmi Jewellers, Baramati and while committing the offence, two Accused managed to escape and fled while the other 2 Accused i.e. Accused No.1-Pavan Jagdish Vishwakarma and Accused No.2-Pradip Bhaiyyala Bisen were caught red-handed on the spot. During investigation, they stated that they were staying at the said Hotel and therefore the Police came to the said Hotel, where the Applicant was present.

4. It is the contention of Mr. Raut, learned Counsel for the Applicant that at the most, the Applicant's role is that he had participated in the pre-planning. He submitted that as far as pre-planning is concerned, even the shop in which the robbery was to be committed was also not decided. The Applicant was not aware about any details and in fact Accused Nos.1 to 4 left the said Hotel without informing him. He submitted that the Applicant is a Computer Science Graduate and is 25 years old. He submitted that the Applicant has no antecedents. He therefore submitted that the Applicant be enlarged on bail.

5. On the other hand, Ms. Kaushik, learned APP vehemently opposed the Bail Application. She pointed out the statement of witness-Gaurav Sanjay Uke (page-86) and the recovery panchanama (pages 57 to 59) and submitted that the Applicant has participated in the offence in question and therefore the Bail Application be rejected. However, after taking instructions, she submitted that the Applicant has no antecedents.

6. Perusal of the record shows that the incident in question took place on 31<sup>st</sup> March 2023, the F.I.R. was lodged on 1<sup>st</sup> April 2023, the Applicant was arrested on 2<sup>nd</sup> April 2023 and the Charge-sheet was filed in July 2023. As per the Charge-sheet there are 20 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the Charge is not framed. Accordingly, the trial is likely to take a considerably long time. The Applicant is a young person aged 25 years and he is a Computer Science graduate.

7. Mr. Raut, learned Counsel for the Applicant states that as several witnesses are from Pune district, the Applicant will reside at Amgaon, District - Gondia.

8. The Applicant does not appear to be at risk of flight.

9. The Applicant does not have any criminal antecedents.

10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

11. In view thereof, the following order:

**ORDER**

(a) The Applicant - Komal Nitin Gautam be released on bail in connection with C.R. No.123 of 2023 registered with the Vadgaon Nimbalkar Police Station, Pune-Rural District-Pune (presently-Supa Police Station) on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter the Pune district after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.

(c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicant shall report to the Amgaon Police Station, District - Gondia once in two weeks i.e. on alternate Sundays between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Amgaon Police Station, District - Gondia to communicate details thereof to the Investigating Officer.

(e) 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 such a person from disclosing the facts to the Court or to any Police personnel.

(f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any prosecution witnesses in any manner.

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

(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]