



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1923 OF 2024**

Imran Ahmed Shaikh

Nilesh Ravindra Patil

versus

The State of Maharashtra

... Applicants

... Respondent

Mr. Raviraj Rajaram with Mr. Shubham Singh, Ms. Deva Shinde, for Applicant.

Mrs. Supriya Kak, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 2 MAY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicants who are arraigned in C.R.No.56 of 2023 registered with Nizampura Police Station, Thane, for the offences punishable under Sections 120B, 341, 342, 364A, 384, 385, 387, 170, 171, 323, 504, 506, 420, 467, 468, 469, 471, 201 read with Section 34 of the Indian Penal Code, seek to be enlarged on bail.
3. At the outset, learned Counsel for the Applicants submits that the co-accused Nikhil Dattatray Joshi and Sagar Raju Chinchole have been released on bail by this Court by an order dated 3 April 2024.
4. The material pressed into service against the applicant No.1 Imran (A5) is that in the personal search of Imran, a sum of Rs.60,000/-, which was part of the alleged booty, was recovered and he was identified in the test identification parade by the first informant. Qua the applicant No.2 Nilesh (A7), recovery of a sum of

Rs.10,000/- at the time of his arrest, is pressed into service.

5. It was submitted that the role attributed to the applicants cannot be distinguished from that of the co-accused who have been released on bail. While releasing the co-accused Nikhil Dattatray Joshi and Sagar Raju Chinchole on bail, this Court had, inter alia, observed as under :

“10. I have carefully perused the material on record and considered submissions canvassed across the bar. The fate of the prosecution case apparently hinges on the identification of the persons who had allegedly abducted the first informant. The first informant alleged that he was forced to board the ‘Ertiga’ car. The identity of the ‘Ertiga’ car would also assume significance.

11. I have perused statement under section 164 and the FIR. The first informant clearly states that he did not note the number of the ‘Ertiga’ car. Prima facie, the identity of the car in which the applicant was allegedly abducted in is in the arena of uncertainty. Secondly, the identity of the applicants as the persons who abducted the first informant is sought to be substantiated on the basis of identification in test identification parade. The second circumstance pressed into service is the recovery of the cash amount of Rs. 7,000/- and Rs. 4,500/- from the applicants Sagar Chincholi (accused No. 4) and Nikhil Joshi (accused No. 3), respectively.

12. I find substance in the submissions on behalf of the applicants that in the absence of any other evidence to connect the applicants with the alleged offences, the circumstance of identification in the test identification parade alone, may not be of decisive significance. Likewise, the recovery of the amounts of Rs. 7,000/- and Rs. 4,500/- pursuant to the disclosure statement made by the applicants by its very nature appears to be not sturdy enough to bear the weight of

accusation. The statement of the owner of the car which was allegedly hired by Nikhil Joshi (accused No. 3) is compatible with the innocence of the applicant Nikhil as well.

13. In the aforesaid view of the matter, the pivotal question as to whether the applicants were the persons who abducted the first informant would be a matter for evidence and trial. Investigation seems to be complete. Charge-sheet has been lodged. The applicants have been in custody for more than a year. Further detention of the applicants, therefore, does not seem warranted. The applicants also appear to have roots in society. Possibility of tampering with evidence and fleeing away from justice appears remote.”

5. The reasons which weighed with this Court in releasing the co-accused on bail, especially in the light of the fact that the fate of the prosecution hinges upon the identity of the persons who allegedly abducted the first informant, apply with equal force to the claim of the applicants for bail. I am, therefore, inclined to allow the application.

6. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicants – Imran Ahmed Shaikh and Nilesh Ravindra Patil be released on bail in C.R.No.56 of 2013 registered with Nijampura Police Station, Thane on furnishing a PR bond in the sum of Rs.30,000/- each and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicants shall mark their presence before Nijampura Police Station on first Monday of every month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicants shall not tamper with the prosecution evidence. 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 him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicants shall regularly attend the proceedings before the jurisdictional Court.

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

Application disposed.

(N.J.JAMADAR, J.)