



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1878 OF 2023

Sandipan Zunzunya Bhosale & Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

Mr. Prashant Hagare, Advocate for the Applicants.

Mr. Shriram S. Chaudhari, APP for the Respondent-State.

Mr. Somnath Vishnu Lande, A.P.I., Raigad District Police Station,
present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 22nd FEBRUARY 2024PC:-

1. Heard Mr. Hagare, learned Counsel appearing for the Applicants and Mr. Chaudhari, learned APP appearing 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.	415 of 2022
2.	Date of registration of F.I.R.	28/11/2022
3.	Name of Police Station	Vadgaon Nimbalkar Police Station, Taluka-Baramati District-Pune

4.	Section/s invoked	392 and 395 of the I.P.C., 1860
5.	Date of incident	28/11/2022
6.	Date of arrest	29/12/2022
7.	Date of filing of Charge-sheet	27/03/2023

3. As per the prosecution case, the incident occurred on 28th November 2022 at around 1.45 a.m. At that time, two persons trespassed the house of the Informant and by making threats to kill the Informant, they robbed golden ornaments and cash having a combined value of Rs.10,77,500/- from her.

4. Mr. Hagare, learned Counsel appearing for the Applicants submitted that there is no evidence whatsoever to connect the present Applicants with the alleged offence. He submitted that except recovery of ear-rings and motorcycle, there is no other evidence. He submitted that in fact, when the incident had occurred, the Informant was alone at her house and that the Informant's husband was not present in the house. In spite of that, the Test Identification Parade ("T.I. Parade") was conducted in which it was the Informant's husband who identified the present Applicants. He submitted that therefore evidence collected by the

prosecution is not reliable and therefore the Applicants are entitled to be enlarged on bail.

5. On the other hand, Mr. Chaudhari, learned APP appearing for the Respondent-State submitted that there is recovery at the instance of the Applicants. He further submitted that as far as Accused No.2 is concerned, there are 6 criminal antecedents of similar nature against him.

6. Perusal of the record shows that the date of the incident in question is 28th November 2022, FIR was lodged on 28th November 2022, the Applicants have been apprehended on 29th December 2022, and Charge-sheet has been filed on 27th March 2023. There are about 15 witnesses proposed to be examined by the prosecution. It is an admitted position that investigation is complete. Trial is unlikely to conclude any time soon and is likely to take a considerably long time.

7. *Prima facie*, there is substance in the contention of Mr. Hagare, learned Counsel appearing for the Applicants that although the Informant's husband was not present when the

incident in question has occurred and that he has not witnessed the Applicants committing the offence in question, in spite of that the T.I. Parade was conducted in which the Informant's husband identified the Applicants. It is surprising that when the incident in question has occurred the Informant was the only person present in the house where the said incident has occurred, wherein the allegation is of robbery of golden ornaments and cash, still the Informant is not a part of the T.I. Parade and her husband who has not seen the Accused persons committing the offence in question, yet he has identified the present Applicants.

8. Admittedly, there are no criminal antecedents against the Applicant No.1. As far as criminal antecedents against the Applicant No.2 are concerned, they are of the years 2015, 2016 and 2018. Mr. Hagare, learned Counsel appearing for the Applicants submitted that as far as those offences are concerned, the Applicant No.2 has already been enlarged on bail.

9. The Applicants does not appear to be at risk of flight.

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

11. In view thereof, the following order:-

ORDER

- (a) The Applicant No.1-Sandipan Zunzunya Bhosale and Applicant No.2-Bapya *alias* Rohan *alias* Pandya *alias* Pandurang Gorakh *alias* Gorya Bhosale be released on bail in connection with C. R. No.415 of 2022 registered with the Vadgaon Nimbalkar Police Station, Taluka-Baramati, District-Pune on their furnishing P. R. Bond of Rs.25,000/- each with two solvent sureties each in the like amount.
- (b) On being released on bail, the Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicants shall report to the Vadgaon Nimbalkar Police Station, Taluka-Baramati, District-Pune once in a month, on the first Sunday of every month between

11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

- (d) The Applicants 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.
- (e) The Applicants shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicants shall attend the trial regularly. The Applicants shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicants shall surrender their passport, if any, to the Investigating Officer.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the observations made herein are *prima facie* and the Trial Court shall decide the case on its own merits and uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]