



Diksha Rane

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

BAIL APPLICATION NO.2258/2023

DEVBA RAMCHANDRA BHALERAO ..APPLICANT
VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Vinod Kashid for the applicant.
Smt. S. D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 1, 2024.

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is the second application for bail. The first bail application was allowed to be withdrawn on 20/1/2023 with liberty to file a fresh application after six months if the trial does not progress substantially.
- 3.** There are in all four accused. The applicant is the accused no.3. The applicant was arrested on 8/1/2020 for the offences punishable under Sections 392, 34, 411 of the Indian Penal Code (hereafter 'IPC' for short) read with Section 3(1)(ii), 3(2), 3(4), 3(5) of the Maharashtra Control

of Organised Crime Act, 1999 (hereafter 'MCOCA', for short), vide C.R.No. 252/2019 registered with Kherwadi Police Station on 8/12/2019.

4. Learned APP opposed the application for grant of bail. Learned APP relied upon the affidavit dated 13/10/2023 filed by the Assistant Commissioner of Police, Kherwadi Division, Mumbai to submit that considering the antecedents of the applicant and the applicant's involvement with the organised crime syndicate of which the accused no.1 is a gang leader, the applicant should not be enlarged on bail. It is further submitted that the twin conditions of Section 18 of the MCOCA cannot be said to be satisfied in the facts of the present case, considering that as many as eight offences of similar nature registered against the applicant.

5. The prosecution case in brief is that on 8/12/2019, at about 3.00 p.m. the complainant Jyoti Satish Sakpal was travelling to attend a marriage function by taxi along with her family members. When the taxi reached Vakola Bridge at 3.15 p.m., two unknown persons came on a motorcycle and snatched her gold articles viz. mangalsutra, locket and chain. The complainant chased them but the said persons

fled away. These persons are accused nos.1 and 2. The accused no.1 is a gang leader. During the course of the investigation, it is revealed that the applicant/accused no.3 is actively involved with the organized crime syndicate. The allegation against the present applicant is that he had handed over the stolen ornaments to the accused no.4 for melting purpose.

6. Learned APP while opposing the application submitted that on personal search of the present applicant, gold ornaments weighing 211.8 grams worth Rs.4,78,000/- was recovered. However, the said recovery pertaining to a different case. Learned APP while drawing my attention to paragraph 16 of the affidavit submitted that the applicant is involved in at least eight similar such offences. Learned APP heavily relied on the confessional statement of the accused no.4 which implicates the present applicant.

7. In my opinion, *prima facie*, so far as the present First Information Report (FIR) is concerned, there is hardly any material against the applicant to implicate him except for the statement of the co-accused. The applicant was not actually involved in the chain snatching. The applicant is in

custody for more than four years with no possibility of the trial concluding any time soon. The prosecution proposes to examine twenty-six witnesses. The investigation is complete. The charge-sheet has been filed. In the facts and circumstances of the present case, considering that the applicant is in custody for more than four years and the trial is not likely to be concluded any time soon, the bar under Section 18 of the MCOCA will not apply in the present case. Though the applicant has reported criminal antecedents, considering the length of his pre-trial custody, the criminal antecedents by itself should not be a factor to deny the bail as in any case I propose to impose stringent conditions. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Devba Ramchandra Bhalerao @ Deva in connection with C.R. No.252/2019 registered with Kherwadi Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Kherwadi police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m., till further order of the trial Court.

(d) 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. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) Except for attending the trial in this case or other cases and for the purpose of reporting to the Investigating Officer, the applicant shall not enter Mumbai/Mumbai Suburban District after being released on bail, till further order of the trial Court.

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

(h) The applicant shall surrender his passport, if any, to the investigating officer.

8. The application is disposed of.

(M. S. KARNIK, J.)