

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

CRIMINAL BAIL APPLICATION NO.3211 OF 2023

Subhash Mohanlal Bishnoi	 Applicant
Versus	
The State of Maharashtra	 Respondent

Ms. Sana Raees Khan, Advocate a/w. Aditya Parmar for the Applicant.

Mr. C.D. Mali, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd MARCH, 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.373/2019 registered at Wakad Police Station, Pimpri Chinchwad under sections 395, 397, 504, 427 of IPC and under Section 3(25) of the Arms Act and Section 37(1)(3) read with 135 of the Maharashtra Police Act.

2. Heard Ms. Sana Raees Khan, learned counsel for the Applicant and Mr. C.D. Mali, learned APP for the Respondent-State.

3. The prosecution case which is unfolded through the FIR itself lodged by one Divyanq Mehta is as follows :

He has stated that he was having a jewelry shop at Shivraj Nagar, , Pune by name 'Punekar Jewellers'. One Monali Kandhare was working with him in that shop. His father had another jewellery shop near Baliraj garden. On 6.3.2019 at about 10.30 a.m. the informant had opened his shop. He and Monali Kandhare were present in the shop. At 12.45 p.m., four persons entered their shop. One of them, closed the shutter from inside. The other three showed pistols to him and threatened him. The informant tried to run outside the shop. He was caught by those persons. There was some altercation. He fell in a corner. Since he was resisting one of those four persons fired two rounds towards him. One bullet entered his thigh and he became seriously

injured. The locker of the shop was opened. They removed all the ornaments from the shop and they went away from the shop. Before going away, they removed DVR containing CCTV footage. They broke the mobile phone of Monali. After going outside the shop they closed the shutter and went away. Monali called the neighbouring owner by opening the shutter. The informant was taken to hospital. The informant was told that there was one more associate of those four persons who was keeping watch outside the shop and after the robbery, all of them went away on two motor-cycles. The informant was admitted to Lotus hospital, Pimpale Saudagar, Pune. The informant gave description of those four persons in the FIR and stated that the ornaments worth Rs.62,50,000/- were taken away. Subsequently the total ornaments were checked and it was noticed that the accused had taken away the gold ornaments weighing 3005.445 grams worth Rs.90,15,000/-.

4. The investigation was carried out and the Applicant was arrested on 7.4.2019 from Haryana. At the

time of his arrest, two fire-arms were found with him. At his instance, 705 grams of gold was recovered which he had buried in the corner of his house. The investigation was carried out and the charge-sheet was filed.

5. Learned counsel for the Applicant submitted that the Applicant was arrested on 7.4.2019. Thereafter, there is no progress in the trial and even the charges are not framed. The Applicant had earlier approached this Court for his release on bail, but, his bail application was rejected by a coordinate Bench on 5.3.2021. Even thereafter there is no progress in the trial.

6. Learned counsel submitted that there was delay of three months in conducting the test identification parade. In this case only two accused were arrested including the present Applicant. The other co-accused was granted bail by this Court vide the order dated 24.3.2021 passed in Criminal Bail Application No.533/2020. She submitted that the Applicant does not have any criminal antecedents.

7. Learned APP opposed these submissions. According to him, there was sufficiently strong material against the present Applicant in the form of recovery of fire arms, recovery of gold ornaments, recovery of motor-cycles, test identification parade and statement of other witnesses showing that he was the mastermind behind the entire offence. He submitted that the trial Court can be directed to conclude the trial within a time bound manner. There are not many witnesses and the trial will not take too long to conclude.

8. I have considered these submissions. Undoubtedly the Applicant is in custody since 7.4.2019 and the trial needs to be conducted expeditiously. I expressed my inclination to make the trial time-bound and to direct the trial Court to conclude the trial within four months. Learned counsel did not make any submissions in that behalf. She only submitted that she has clear instructions to invite the order on the prayer for bail.

9. I have considered these submissions. I am inclined to make the trial time bound. However, as far as consideration of the bail application is concerned, I have perused the entire material on record and I found that there are six serious circumstances against the Applicant. The offence is very serious. The accused had entered a jewelry shop in the broad day light and had actually fired at the jeweller and had committed robbery. There are following circumstances against him:

- A) When the Applicant was arrested at Hayana, two country made pistols were recovered from him. They were sent for ballistic examination along with empty of the pistol found in this case. The ballistic report clearly mentions that the bullet which is test fired through the recovered country-made pistol, had the same characteristics as the bullet sent along with the BL No.241/2019. Thus, the bullet recovered in this case matched with the firearm recovered from the Applicant at the time of his arrest. This is a seriously

incriminating circumstance against the present Applicant.

- B) When the Applicant was arrested, at his instance, the gold ornaments buried by him in front of his house were recovered at his instance. They were weighing 705 grams. This is another circumstance against the Applicant.
- C) The accused had stolen two motorcycles. Those were used in committing that robbery. Both these motorcycles were recovered at the instance of the present Applicant on 11.4.2019 parked in Amrutnagari Co-operative Housing Society at Wagholi, Pune. Both these motorcycles were stolen and their owners have given statements that they were stolen.
- D) The room where the Applicant was staying was searched. Two helmets, one hammer, one cutter, two number-plates and hand-gloves were recovered from

that room. The flat was in the same Amrutnagari Co-operative Housing Society, Wagholi, Pune.

- E) The test identification parade was held on 18.7.2019 in which both the first informant as well as the aforementioned Monali had identified the present Applicant. The effect of delay in conducting the identification parade can be tested during trial.

10. The informant had suffered grievous injuries. There were two punctured wounds over his left thigh coupled with active bleeding. The bullet wound had caused compound fracture of left femur and it was a grievous injury. Thus, taking into account all these factors, it is beyond doubt that there is overwhelming and strong circumstances against the present Applicant. The manner in which the offence was committed is extremely serious. Undoubtedly the Applicant is in custody since 7.4.2019. As against that, interest of the society and safety of the members

of the society and the shop owners will also have to be taken into account.

11. Therefore, to maintain the balance, though I am not inclined to grant bail to the present Applicant, I am inclined to make the trial time bound with clear and specific directions to the trial Court to conduct the trial within a time bound manner. If the other co-accused is not cooperating in early disposal of the trial, his case can be separated. The trial Court is sufficiently empowered to take steps in accordance with law to see to it that the trial is conducted expeditiously. Learned APP submits, on instructions, that the investigating agency was taking all steps required to complete the trial within a time bound manner. Learned APP submitted that there are not many witnesses in this case and the trial should not take too long.

12. Hence, the following order :

ORDER

- (i) The Application for bail is rejected.
- (ii) The trial Court is directed to complete the trial within a period of four months from today.
- (iii) If necessary the trial shall be conducted on day to day basis. If the co-accused is delaying the trial, his trial can be separated in accordance with law.
- (iv) The Applicant himself shall cooperate with the early disposal of the trial.
- (v) The jail authorities shall produce the Applicant on every date before the trial Court.
- (vi) The learned Judge shall give precedence to this trial and shall see to it that the trial is concluded within the aforementioned period of four months.
- (vii) If the trial is not concluded within such period, the Applicant is at liberty to make a fresh application for bail on that ground.
- (viii) With these observations, the Application is disposed of.
- (ix) The Registry is directed to forward a copy of this order to the trial Court immediately.

(SARANG V. KOTWAL, J.)

Digitally signed
by
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