



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3446 OF 2023**

Sagar Subhash Narawade
versus
The State of Maharashtra

... Applicant
... Respondent

Mr. Priyesh R. Singh, for Applicant.
Ms. Ranjana Humane, APP for State.

CORAM: N.J. JAMADAR, J.

DATE : 28 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant who is arraigned in C.R.No.587 of 2021 registered with Kalyan Railway Police Station for the offences punishable under Sections 329, 397, 394, 341, 506(2) read with Section 34 of IPC seeks to be enlarged on bail.
3. Sushant Ganesh Jadhav, (injured) was proceeding on a footway towards Subhash Nagar from Ulhasnagar Railway Station. He was way-laid by 3-4 unknown persons. They snatched the mobile phone and the bag which he was carrying. When the injured resisted, those persons allegedly assaulted him by means of iron rod. The injured sustained bleeding injuries on his head. Mr. Madhukar Sitaram Rathod found the injured laying on the footway. He was shifted to Central Hospital, Ulhasnagar.
4. On 9 August 2021, Kalyan Railway Police apprehended the applicant while he was moving suspiciously. Cash of Rs.500/- was recovered from the

possession of the applicant. During the course of interrogation, the applicant made a disclosure statement and pointed the places where the injured was assaulted and the ATM where the applicant and Shahrukh, the co-accused had withdrawn the cash by using the ATM Card of the injured. Test identification parade was conducted wherein the applicant was identified. Post completion of investigation, chargesheet came to be lodged.

5. Learned Counsel for the applicant submitted that in the supplementary statement, the injured had stated that he had seen the assailants in the light of the torch of the mobile phone. It was not possible for the injured to identify the robbers who had allegedly robbed the injured after one and half months of the alleged occurrence. There is a serious discrepancy about the weapon with which the injured was allegedly assaulted. The applicant has been in custody since 9 August 2021. Therefore, the applicant deserves to be enlarged on bail.

6. Learned APP resisted the prayer for bail. Attention of the Court was invited to the panchanama of the CCTV footage which indicates that the applicant and co-accused had entered into ATM and withdrawn the amount. It was further submitted that the injured had identified the applicant as one of the robbers. Delay in holding the test identification parade was on account of the grievous injuries which the injured had sustained. Therefore, the applicant may not be released on bail.

7. Evidently, the injured was way-laid by 3-4 unknown persons. The

incident had occurred at about 9.00 p.m. In the supplementary statement, the source of light is attributed to the torch which the injured had in his mobile phone. The test identification parade was held on 24 September 2021. It is pertinent to note that the applicant was arrested on the next day of the occurrence on the basis of suspicion. The complicity of the applicant would thus hinge upon the aspect of the identification of the applicant by the injured as one of the robbers. That would essentially be a matter for trial.

8. The applicant has been in custody since 9 August 2021. It is unlikely that the trial can be concluded within a reasonable time. The Court is not informed that the applicant has antecedents. In the circumstances, I am inclined to exercise discretion in favour of the applicant.

9. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Sagar Subhash Narawade be released on bail in C.R.No.587 of 2021 registered with Kalyan Railway Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence before Kalyan Railway Police Station on first Monday of every alternate 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 applicant 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 applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant 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 applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)