



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4175 OF 2023**

Amin Mohammed Shaikh
versus
State of Maharashtra

... Applicant
... Respondent

Mr. Nizamuddin Khan with Ms. Sheeba Khan, Ms. Shaba N. Khan, for Applicant.
Mrs. Geeta P. Mulekar, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 19 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.911 of 2021 registered with Andheri Police Station for the offences punishable under Sections 120B, 379, 397 read with Section 34 of the Indian Indian Penal Code.
3. The first informant lodged a report with the allegations that on 19 July 2021, while he was travelling in a BEST Bus along with the bag containing gold ornaments, he heard commotion. People were shouting that the thieves were decamping with stolen bag. The first informant requested the driver of the bus to stop the bus. He chased the person who fled away along with the bag. However, the said person made good his escape. The first informant thus lodged a report to the effect that a bag containing 77 gold bangles worth Rs.46,50,000/- was stolen by unknown person, whose features were described by the first informant.

4. On 21 July 2021, a supplementary statement came to be recorded. In the said supplementary statement, the first informant alleged that while he was chasing the thief, a person accosted him and by pointing out a revolver, threatened him not to chase the said thief lest he would be killed. Therefore, he stopped chasing the said thief. Thereupon, the offences punishable under Sections 120B and 397 of the Indian Penal Code came to be added.

5. Learned Counsel for the Applicant submitted that the applicant is in custody since 28 July 2021. Nothing has been recovered at the instance of the applicant.

6. Learned APP resisted the prayer for bail. It was submitted that the applicant is a habitual offender. As many as 9 crimes have been registered against the applicant. The applicant had allegedly sold the stolen property to a goldsmith at Rajasthan from whom he melted gold came to be recovered. Therefore, the applicant does not deserve to be released on bail.

7. Prima facie, it appears that the first informant had initially lodged a report of theft by an unknown person, while he was travelling in a bus. The allegations of robbery appeared to have been made after about 10 days of the alleged occurrence. Prima facie, the aspect of delay in making the allegations of robbery bears upon the veracity of the first informant and would, thus, be a matter for trial.

8. There is no recovery at the instance of the applicant. Can recovery

made from the co-accused be fastened to the applicant would be a matter for trial.

9. I have perused the list of the crimes against the applicant enumerated in the report of the Investigating Officer. Prima facie, the allegations are mostly of the offence punishable under Section 379 of IPC, barring C.R.No.372 of 2018 registered for the offence punishable under Section 392 of IPC.

10. The applicant is in custody from 28 July 2021. It is unlikely that the trial can be concluded in a near future. Thus, having regard to the period of incarceration, I am inclined to exercise the discretion in favour of the applicant.

11. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Amin Mohammed Shaikh be released on bail in C.R.No.911 of 2021 registered with Andheri 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 Andheri Police Station on first Monday of every month in between 11 am to 1 pm till the conclusion of the trial.

(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.)