

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2466 OF 2024**

Vinod Gulab Kadam	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Abhinav Dubey a/w. Mr. Amit Tiwari for applicant.

Mr. R. M. Pethe, APP for respondent-State (through video-conferencing).

**CORAM : MANISH PITALE, J.
DATE : 02nd AUGUST, 2024**

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is seeking bail as he was arrested on 03.02.2022 in connection with FIR No.0035 of 2022 dated 31.01.2022 registered at Police Station Kapurbavadi, District Thane City, for offences under Sections 380 and 457 read with Section 34 of the Indian Penal Code, 1860. The applicant is one of the five accused persons in the present case.

3. The informant is the manager of a petrol pump and the allegation is that the accused persons broke into the petrol pump with the assistance of accused No.2, who was working in the petrol pump. Thereafter, the accused persons allegedly took away the cash box/locker from the petrol pump, which contained huge amount of cash to the tune of ₹ 27 lakhs.

4. FIR was registered against unknown persons. The police eventually caught up with accused No.1, who was an ex-employee at the petrol pump

and thereafter, during the course of investigation, the investigating authority reached a conclusion that there was sufficient material to show involvement of all the accused persons, including the applicant in the present case. It is found from the papers filed alongwith the chargesheet that cash of ₹ 15,06,100 was recovered from the applicant.

5. The learned counsel for the applicant submits that in the present case, there is no material to link the applicant with the incident in question. It is submitted that the FIR was registered against unknown persons. The CCTV footage obtained by the investigating authority only shows three persons wearing masks and there is no material to link the applicant with the incident in question. Mere recovery of cash cannot be the basis to link the applicant with the incident in question, in the absence of any other material. It is submitted that although there are two criminal antecedents of the applicant, that in itself cannot be a ground to reject the bail, so long as there is absence of material to demonstrate involvement of applicant in the present case.

6. On the other hand, the learned APP submits that recovery of such huge cash from the applicant is a relevant factor. It is submitted that the applicant has criminal antecedents and in one of the cases, similar allegations have been made against him. It is submitted that during the course of investigation, the role of the applicant came to light and on that basis, he was arrested on 03.02.2022.

7. This Court has perused the material on record in the light of rival submissions. The FIR was registered against unknown persons. The CCTV footage does not appear to be of any assistance in linking the applicant with

the incident in question, as the individuals seen in the CCTV footage are all wearing masks. The statement of a witness upon which the learned APP sought to place reliance, is a chance witness. The said statement was recorded on the next date of registration of FIR. She has simply stated that she had seen 3-4 individuals outside the office of the petrol pump on the date of incident, who were wearing masks and handkerchiefs were placed on their faces. The statement of the aforesaid witness can also not be of any assistance to link the applicant with the incident in question. There are apparently no call detail records of mobile phone to indicate the presence of the applicant on the date, time and place of the incident.

8. This leaves the factum of recovery of cash from the applicant and that too, on the basis of the memorandum executed under Section 27 of the Evidence Act. This Court finds the aforesaid material to be sketchy and it falls short of showing involvement of the applicant in the present case.

9. The applicant has remained behind bars for about two and half years. Therefore, the applicant has made out a case for granting bail.

10. In view of the above, the application is allowed in the following terms:

- (i) The applicant shall be released on bail in connection with FIR No.0035 of 2022 dated 31.01.2022 at Police Station Kapurbavadi, District Thane City, on furnishing PR Bond of ₹ 25,000 and one or two sureties in the like amount to the satisfaction of the trial Court;
- (ii) upon release, within one week, the applicant shall inform the Investigating Officer as well as the trial court about his contact number and residential address and update the same in case of any change;

- (iii) the applicant shall report before Kapurbavadi Police Station, District Thane City on first Monday of every month between 10:00 a.m. and 12:00 noon, during the pendency of the trial;
- (iv) the applicant shall co-operate with the trial Court in completing the proceedings expeditiously and attend the proceedings before the trial Court on each and every date, unless specifically exempted;
- (v) the applicant shall not tamper with the evidence of the prosecution in any manner. He shall not undertake any action that may influence the informant, witnesses and other persons concerned with the case.

11. The applicant shall be liable to face proceedings for cancellation of bail, in the event any of the aforesaid conditions are violated.

12. It is also clarified that the observations made in this order are limited to the disposal of the present bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The application is disposed of.

(MANISH PITALE, J)