

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2615 OF 2024

Madhav Chunnalal Giri	...	Applicant
Vs.		
State of Maharashtra	...	Respondent

Mr. Ammar Nizami (through VC) for Applicant.
Mr. Balraj Balkrishna Kulkarni, APP for Respondent-State.
Mr. Anand Raorane, PI, Property Cell, Crime Branch, Thane.

CORAM : MANISH PITALE, J.
DATE : AUGUST 06, 2024

P.C. :

1. Heard Mr. Nizami, learned counsel for the applicant and Mr.Kulkarni, learned counsel for the respondent - State.

2. The applicant was arrested on 11.08.2023 in connection with FIR No.0387 of 2023 dated 28.06.2023 registered with Ulhasnagar Police Station, District - Thane, for offences punishable under Sections 380, 381, 454 and 457 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. According to the investigating authority, there are 14 accused persons in the present case. While 10 accused persons are absconding, the remaining 4 persons, including the applicant, were arrested.

4. As per the informant, in the intervening night between 26.06.2023 and 27.06.2023, huge amount of gold weighing about 6 kilos was stolen from his jewellery shop. The shop was broken open with the use of gas cutters etc. The informant suspected the watchman of the shop and therefore, the watchman and his wife were named accused persons in the FIR. During the course of investigation, role of the other persons came

to the fore and accordingly, they were all arraigned as accused persons.

5. The learned counsel for the applicant submits that there is hardly any material with the investigating authority to link the applicant with the incident in question. It is submitted that the investigation was completed and charge-sheet was filed on 07.10.2023 and even if the entire material along with the charge-sheet is taken into consideration, the applicant cannot be linked with the said incident.

6. It is submitted that there is no material on record to connect the applicant with the room, which was allegedly taken on rent. It is submitted that the manner in which the applicant was produced before the shop owner, from where the gas cylinder, gas cutter and other equipment were purchased, was wholly defective and no proper test identification parade was ever carried out. It is further submitted that no recovery of the alleged stolen gold is made from the applicant and there is no material to support the case of the investigating authority as against the applicant.

7. On the other hand, the learned APP submits that the role of the applicant is evident from the material on record. The statement of the owner of the room, which was taken on rent by the applicant, is very much on record, wherein he has given the details as to the manner in which the applicant deposited Rs.25,000/- for taking the room on rent and that the rent agreement was to be executed. It is further submitted that the CCTV footage clearly shows the presence of the applicant and the manner in which the applicant with the other accused persons entered into the shop from the backdoor. It is further submitted that there is sufficient material to indicate the involvement of the applicant in the present case. Emphasis is placed on criminal antecedents of the applicant. It is brought to the notice of this Court that there are two other FIRs registered against the applicant in Thane District, one in Vapi

Police Station at Gujarat, as also one in Madhavnagar Police Station in Madhya Pradesh. Similar offences have been registered against the applicant in those cases also. On this basis, it is submitted that the application deserves to be dismissed.

8. On the earlier occasion, when the application was taken up for consideration, this Court was, *prima facie*, impressed with the contention raised on behalf of the applicant about the defective nature of establishing identity of the applicant by directly producing him before the shop owner from where the gas cutters, gas cylinders and other equipment used in the crime were allegedly purchased. In that light, the learned APP took some time to place before this Court material relevant for indicating the involvement of the applicant in the present case.

9. Today, the learned APP has produced CCTV footage as also photographs obtained from the CCTV footage to emphasize upon the presence of the applicant at the date and time of the incident. Having perused the same, *prima facie*, this Court is convinced that the investigating authority has material to indicate the presence of the applicant at the date and time of the incident. The gas cutters and gas cylinders used during the commission of crime were recovered from the shop itself. There is material on record to indicate that the applicant had taken a room on rent in the vicinity, a few days prior to the incident in question. The material available on record with the charge-sheet does *prima facie* indicate involvement of the applicant in the incident in question.

10. The material brought to the notice of this Court shows that other than the present case, as many as four crimes have been already registered against the applicant. One crime each has been registered in Vapi Police Station at Gujarat and Madhavnagar Police Station at Madhya Pradesh and two crimes have been registered in police stations

at Thane District for similar serious offences. Considering the said criminal antecedents of the applicant and material available on record, this Court is of the opinion that no case is made out for granting bail to the applicant. Accordingly, the application is dismissed.

11. Since the charge-sheet is filed, the concerned Court will take appropriate steps to expeditiously proceed in the matter.

(MANISH PITALE, J.)

Minal Parab