



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 535 OF 2024

Rohit Ramdas Bhagat Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.G. Sahu, counsel for applicant.

Mr. N.B. Jawade, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 26/09/2024.

1. The applicant came to be arrested on 04/01/2022, in connection with Crime No. 547/2021 registered with Police Station Beltarodi, Tah. Nagpur, District Nagpur for the offence punishable under Sections 395, 400, 412, 413 of the Indian Penal Code, 1860; Section 4/25 of the Arms Act and Section 135 of the Bombay Police Act.

2. The crime is registered on the basis of a report lodged by Mangesh Devrao Wandre alleging that the applicant and other co-accused entered into the house of the complainant with weapons and committed the dacoity by stilling the gold ornaments and cash. The applicant was assisted by at least 10 to 12 other co-accused during the commission of the crime. One of the co-accused, Gujar alias Changiram Mongiya, is facing trial for the offence triable under the provisions of the MCOC Act. Thus, the involvement of the present applicant is also in the organized crime syndicate and continuously in the unlawful activities.

On the basis of the said report, police have registered the crime against the present applicant and other co-accused.

3. Heard learned counsel for the applicant who submitted that as far as the present applicant is concerned, except the test identification parade, during which the applicant is identified, there is no other material to connect with the alleged offence. Nothing is recovered from him. The entire gold ornaments are recovered from the jewelers, who are the co-accused. Thus, except for the test identification parade, there is no other material to connect the present applicant. The C.D.R. report is also not there to show any connection of the present applicant with the other co-accused. Now, investigation is already completed and charge-sheet is filed. He submitted that the present applicant is already released on bail by the Sessions Court in the MCOC case, which was registered against him. Thus, considering all these facts, the applicant be released on bail.

4. Learned APP strongly opposed the said application and submitted that this Court has already rejected the application of the co-accused. He further submitted that the initial application of the present applicant is withdrawn by him, as this Court was not inclined to grant bail.

5. After hearing learned counsel for the applicant and learned APP for the state. Perused the entire investigation, from which it reveals that admittedly nothing is recovered from the present applicant. He is also released on bail in the MCOC case by the Sessions Court. Except the test

identification parade, there is no other material collected during the investigation to show his involvement in the alleged offence. Admittedly, the test identification parade is not the primary evidence unless there is other direct evidence or circumstantial evidence. The test identification parade would not help the prosecution to show his involvement in the alleged offence. Considering now the investigation is completed charge-sheet is filed, trial is not yet commenced, and the applicant is behind bars from 4/01/2022. Considering that there is no substantial progress in the trial and for a considerable period, the applicant is behind bars, and considering the role which reveals from the investigation papers, the applicant has made out a case for grant of bail. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order;

- a] The application is allowed.
- b] The applicant – Rohit Ramdas Bhagat shall be released on bail, in connection with Crime No. 547/2021 registered with Police Station Beltarodi, Tah. Nagpur, District Nagpur for the offence punishable under Sections 395, 400, 412, 413 of the Indian Penal Code, 1860; Section 4/25 of the Arms Act and Section 135 of the Bombay Police Act, on furnishing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall attend the concerned police station twice in a month on 1st and 15th day of every month between 10.00 to 01.00 p.m. till the culmination of the trial.
- d] The applicant shall not leave the jurisdiction of the Nagpur district court without prior permission of the Court.
- e] The applicant shall not indulge himself in similar types of activities, and if a single incident is reported, the bail granted to the applicant deserves to be cancelled.
- f] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The application stands **disposed of**.

[URMILA JOSHI-PHALKE, J.]