

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 967 OF 2024

Chirag Indermal Rawal	.. Applicant
Versus	
State of Maharashtra	.. Respondent

WITH
BAIL APPLICATION NO. 804 OF 2024

Ankit Sanjay Mahadik	.. Applicant
Versus	
State of Maharashtra	.. Respondent

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- Mr. Vaibhav Bagade a/w Mr. Aman Kothari, Mr. Gaurav Kalekar & S.U. Pawar for Applicant in BA 967/24
 - Mr. M.K. Kocharekar, Advocate for Applicant in BA 804/24
 - Mr. Hitendra J. Dedhia, APP for Respondent - State

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 16, 2025

P. C.:

1. Heard Mr. Bagade, learned Advocate for Applicant in BA 967/24; Mr. Kocharekar, learned Advocate for Applicant in BA 804/24 & Mr. Dedhia, learned APP for Respondent - State.

2. Applicants - accused Nos. 4 and 5 have filed the present Applications for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.PC.**") in connection with C.R. No. 891/2021 registered with Dahisar Police Station for the offences punishable under Sections 452, 396, 397, 109, 120(B) of the Indian

Penal Code, 1860 (for short, "**IPC**"), Sections 3, 25 & 27 of the Indian Arms Act, 1959 and Sections 37(1)(A) and 135 of the Bombay Police Act, 1951. Both the Applicants are arrested on 01.07.2021 and are incarcerated for 4 years 3 months & 15 days.

3. There are in all 7 accused persons in the present crime. Accused No. 7 has been released on bail by this Court by order dated 11.02.2025 (Coram : Shivkumar Dige, J.). *Prima facie* when the said order is read, it is seen that according to the prosecution case, accused No. 7 was the chief conspirator and mastermind of the crime who had financed the entire operation in question. The case of prosecution has been duly considered by the Court while enlarging accused No. 7 on bail primarily on the ground of his long incarceration pending trial. On that count, both the learned Advocates appearing for Applicants would inform the Court that charge has been framed recently however the trial is yet to commence and prosecution desires to examine a probable 67 witnesses as stated in the chargesheet in support of its case.

4. Mr. Dedhia, learned APP would persuade the Court to consider the role of Applicants in the crime as being co-conspirators along with other accused persons which would disentitle them from releasing on bail. He would submit that conspiracy was allegedly hatched in collusion with the present Applicants and accused Nos. 1,

2, and 3 executed the actual crime in question by entering the jewellery shop for committing robbery; however, in the course of said act, they fatally injured the uncle of the first informant with a firearm used by accused No. 1. He would submit that the present Applicants are indicted by prosecution for having facilitated escape of accused Nos. 1, 2, and 3 from the scene of offence along with the articles allegedly robbed during the crime. He would fairly inform the Court that recovery of articles from the present Applicants has been effected and further the motor vehicle and scooter allegedly used by the accused persons pursuant to commission of the offence have also been recovered. He would submit that considering the complicity of the Applicant in the present crime, Applications for Bail be rejected.

5. I have heard the learned Advocates appearing for the respective parties at bar and perused the record of the case.

6. *Prima facie*, it is seen that insofar as present Applicants are concerned, they were admittedly not present at the incident spot when the incident occurred. The case of prosecution which is *prima facie* borne out from the record is that accused Nos. 4 and 5 were seen loitering in the vicinity of the scene of offence i.e. the jewellery shop, both on the day preceding the incident as well as on the date of the alleged incident. That apart case of prosecution is that they were

recipients of the stolen articles which *prima facie* have been recovered from the Applicants. Investigation is completed.

7. In view of the above *prima facie* observations seen from the record of the case and considering the role of Applicants i.e. accused Nos. 4 and 5 *qua* the role of accused No. 7, the main conspirator and mastermind who financed the entire operation and is enlarged on bail on the ground of long incarceration, Applicants are also entitled to be released on bail on the ground of their long incarceration and on parity. Needless to state that complicity of present Applicants in the crime can be established by the prosecution in trial.

8. Hence, both Bail Applications are allowed subject to the following terms and conditions:-

- (i) Both the Applicants are directed to be released on bail on furnishing PR. Bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount;
- (ii) Before their actual release from jail, Applicants shall furnish their addresses where they propose to reside after their release from jail to the concerned Police Station and also to the trial Court;

- (iii) After their release from jail, Applicants shall report to the Investigating Officer as and when called for;
- (iv) Applicants shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark their presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicants shall mark presence on the next working day;
- (v) Applicants shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if they do so, it will entitle the prosecution to apply for cancellation of this order;
- (vi) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicants shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

9. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

10. Both the Bail Applications are allowed and disposed.

[MILIND N. JADHAV, J.]

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