

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1297 OF 2024

Abhijit Amrut Barve
Versus
State of Maharashtra

.. Applicant
.. Respondent

.....

- Ms. Punam Karande a/w. Ms. Manjiree Dhuri, Advocates for Applicant.
- Mr. Hitendra J. Dedhia, APP for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 27, 2025

P.C.:

1. Heard Ms. Karande, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R. No.129 of 2021 dated 16.05.2021 registered with Vithalwadi Police Station for offences punishable under Sections 395, 323, 504 and 34 of the Indian Penal Code, 1860 (for short '**IPC**') and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. Applicant is arraigned as Accused No.1 in the present crime. Case of prosecution is that on date of incident the accused persons threatened the First Informant – Complainant and slapped him and and forcibly removed his gold chain weighing 25 grams from his neck

valued at Rs.50,000/- and fled.

4. There is one eye witness to the incident, recovery of weapon i.e. knife has been made from Accused No.1 whereas recovery of the gold ornament which was robbed has been made from Accused No.3.

5. Applicant is incarcerated for 3 years 10 months 11 days pending trial. Charge has not been framed till date. According to the prosecution they would be examining a probable 20 witnesses in the trial. Considering the prospect that trial would not be commenced or even completed in the near foreseeable future, I am inclined to consider the case of Applicant for bail.

6. It is seen that Accused Nos.2 and 3 have both been granted bail by the Sessions Court. In so far antecedents of Applicant are concerned, Ms. Karande has fairly informed the Court that there are four antecedents wherein in 3 cases Applicant has been acquitted and in one, case against Applicant is under Section 380 which is pending in the Ulhasnagar Court.

7. Though Mr. Dedhia, learned APP for Respondent would persuade the Court to consider the gravity of the crime from society's perspective, *prima facie*, it is seen that recovery is completed, charge-sheet is filed and there is no possibility of the trial been commenced or completed in the near foreseeable future long incarceration pending trial affects right to speedy trial and personal liberty explained under

Article 21 of the Constitution of India.

8. In that view of the matter, Applicant has made out a case on parity with the other co-accused persons who are enlarged on bail. Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (v) Applicant 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 he does so, it will entitle the prosecution to apply for cancellation of this order;

(vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(viii) Applicant is prohibited from entering the jurisdiction of Vithalwadi Police Station until the completion of trial, save and except to attend the Police Station or Court, if required under this order; and

(ix) 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. They shall not be construed as observations on merit. The trial shall be adjudicated on the strength of evidence led by parties and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

10. Bail Application No.1297 of 2024 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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