

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 2907 OF 2024

Naveed Rafique Shaikh

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Tapan Thatte a/w. Mr. Vivek N. Arote and Mr. Akshay Dingale, Advocates for Applicant.
 - Ms. Rajeshree V. Newton, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 24, 2025.

P.C.:

1. Heard Mr. Thatte, learned Advocate for Applicant and Ms. Newton, learned APP for Respondent – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R.No.297 of 2022 registered with V.P. Marg Police Station for the offences punishable under Sections 394, 395, 397, 341, 504, 506-II and 120-B of the Indian Penal Code, 1860 (for short ‘IPC’).

3. Applicant is arraigned as Accused No.9 in the crime in question. 6 out of 10 Accused are enlarged on bail. Their bail orders passed by this Court and the Sessions Court are appended at page No.1272 onwards of the present Application.

4. Date of the incident is 27.05.2024, First Informant is employee (angadia) of M/s. Jayantilal Pravinkumar Company who was transporting gold ornaments from Ahmedabad to Mumbai in the area called Zaveri Bazar in Mumbai. Incident occurred in a public place on a busy public road at 07:30 a.m. in the morning. Case of the prosecution is that Accused No.1 – Madhukar Ramdas @ Ramchandra Thorat is the key conspirator of the crime and he alongwith his accomplices hatched a conspiracy and plan to commit the aforesaid crime.

5. According to prosecution case, 6 – 7 persons were hired from Hadapsar area in Pune to commit the crime in question and one day prior to the date of the incident i.e. 26.05.2022 the Accused persons met at a lodge in Sion area and stayed at the said lodge. The gold which was robbed was quantified at 1 kg and 700 grams and it is informed that the entire gold has been recovered. Recovery has been possible after thorough investigation from various gold sellers spread all across Maharashtra due to the role of the accused persons.

6. In so far as indictment and role of the present Applicant before me is concerned Accused No.7 – Harshwardhan Shahu Ghorpade from Ichalkaranji Town, Kolhapur has recorded his role. In his disclosure statement, he has disclosed the name of the present Applicant and stated that Applicant had come to him for sale / disposal

of some of the gold ornaments which were the subject matter of the crime in question and they sold the said gold ornaments to certain jewellers in Ichalkaranji. His statement is appended at page No.115 of the Application.

7. Considering the role of present Applicant and more specifically the fact that apart from the principal accused who actually commit the robbery by committing the offence in question. The other co-accused having a similar role have been granted bail by this Court, parity is claimed by the Applicant.

8. Mr. Thatte, learned Advocate for Applicant has placed before me one more order dated 27.11.2024 passed recently by this Court (Coram: Bharat P. Deshpande, J.) while granting the bail of another co-accused namely Accused No.3. He would submit that role of the present Applicant before the Court is spelt out to be the same as of those accused who have already been enlarged on bail by this Court.

9. It is *prima facie* seen that role attributed to the Applicant is similar to the other co-accused who aided in disposal of the gold ornaments which have already been recovered.

10. Ms. Newton, learned APP has vehemently opposed the Bail Application stating that there is strong evidence collected by the prosecution against the Applicant and he having been directly indicted in selling of the stolen gold ornaments through Accused No.7. She

would submit that role of Applicant should therefore be considered by the Court from that perspective. Apart from the above she has referred to and relied upon the statement of one Ujma Abdul Rehman appended at page No.107 of the Application and would submit that after the commission of the crime in question, Applicant alongwith his co-accused had instead of going back to Hadapsar, Pune went to Newasa, Ahmednagar and stayed there for a few days. She would submit that the witness has overheard the details of the present crime in question. *Prima facie* when the statement is read it does not relate to the present crime but talks about some crime relating to rioting in Mumbai wherein Applicant was involved.

11. Mr. Thatte would strongly submit that the case of the present Applicant before the Court is akin to the other co-accused persons who have already been released on bail by orders dated 12.07.2023 and 16.10.2023 passed by the Trial Court; order dated 04.11.2023 passed by this Court (Coram: M.S. Karnik, J.); order dated 18.12.2023 passed by this Court (Coram: G.A. Sanap, J.); order dated 15.04.2024 passed by this Court (Coram: M.S. Karnik, J.) and order dated 27.11.2024 passed by this Court (Coram: Bharat P. Deshpande, J.) and therefore he would submit that Applicant deserves to be released on bail. In the present case, investigation is completed and the entire gold ornaments have been recovered from all co-accused and there is no recovery from the present Applicant. He would submit that considering the enormity

of the present crime in question, prosecution will be examining number of witnesses which is also not specified and it is clear that there is no possibility of the trial commencing in the near future. He would also submit that Applicant has no antecedents.

12. In view of the above, role of the Applicant being in consonance and parity with the co-accused who have been granted bail by the above orders, Bail Application stands allowed on the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.50,000/- (Rs. Fifty Thousand only) with one or two sureties of the like amount;
- (ii) Applicant shall report to the Investigating Officer at V.P. Marg Police Station, Mumbai as and when called by the Investigating Officer;
- (iii) 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;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

- (v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and
- (vii) Any infraction of the conditions shall entail prosecution to apply for cancellation of bail granted to the Applicant.

13. It is clarified that the above observations in this order are limited for the purpose of granting bail only and I have not made any observations on the merits of the case and the trial shall proceed uninfluenced by the present order.

14. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

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signed by AJAY
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