

Shabnoor

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

BAIL APPLICATION NO.3480 OF 2024

Sampatraj Geverchand Jain	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Asshish Shukla a/w Prachish Shukla, Mr. Aman Singh, and Ms. Arusha Mishra for the Applicant.

Ms. Megha Bajoria, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 3, 2025

P.C.:

1. By the instant bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (“Cr.P.C.” for short), the applicant is seeking regular bail in connection with Crime Register No. 283 of 2023 registered with Bandra Police Station for offences punishable under Sections 328 and 382 read with Section 34 of the Indian Penal Code, 1860 (“IPC” for short).

2. The prosecution case, in brief, is that on 17th February 2023, the applicant, along with the co-accused, allegedly hired a rickshaw from Andheri Railway Station to Jarimari Temple, Bandra, along with the complainant. It is alleged that at the temple, the applicant and co-accused offered prashad to the complainant, which caused him to lose consciousness and faint. Thereafter, taking undue advantage of the situation, the applicant and co-accused allegedly committed theft and deprived the

complainant of a gold chain weighing 12 grams, a gold pendant weighing 2.5 grams (together valued at about ₹40,000/-), and cash of around ₹7,000/-. Based on these allegations, an FIR came to be registered against the applicant and the co-accused.

3. The learned Advocate appearing for the applicant submits that except for CCTV footage, which only shows the applicant's presence near the vicinity of the incident around 7:55 a.m. on a nearby road, there is no other material linking the applicant to the crime. It is urged that mere presence in the locality cannot be equated with involvement in the offence.

4. It is further submitted that the applicant was arrested on 8th May 2023, and that the alleged recovery at his instance does not pertain to the stolen property. The learned Advocate has pointed out that no Test Identification Parade (TIP) has been conducted to establish the complainant's identification of the applicant as the offender. It is further argued that the charge-sheet has already been filed, investigation is complete, and no further recovery is pending. Hence, the continued detention of the applicant would serve no purpose. The learned Advocate therefore prays for the release of the applicant on bail, stressing that mere antecedents, in the absence of a prima facie case, cannot justify prolonged pre-trial incarceration.

5. Per contra, the learned APP has opposed the application. She submits that the applicant is a resident of the State of Gujarat and had no valid reason to be present at the spot of the incident at the relevant time. She further points out that the applicant has two

prior criminal antecedents of a similar nature, which demonstrate a tendency of repeating such offences. It is also stated that the forensic report regarding the alleged intoxication of the complainant is still awaited, and therefore the possibility of the applicant's active involvement in the crime cannot be ruled out at this stage. Accordingly, the learned APP contends that the application does not deserve consideration and ought to be rejected.

6. I have given my thoughtful consideration to the rival submissions and perused the material placed on record. The FIR and the charge-sheet indicate that the case is primarily based on circumstantial material, such as CCTV footage, which at best shows the presence of the applicant near the spot. Except for this, there is no direct evidence linking the applicant to the alleged act of administering any intoxicant or committing theft. The alleged recovery made at the instance of the applicant is also not of the stolen property.

7. It is further seen that no Test Identification Parade (TIP) was conducted to establish the complainant's identification of the applicant. In the absence of such primary evidence, the case of the prosecution rests on weak material insofar as the applicant's involvement is concerned. The investigation has been completed, and the charge-sheet has already been filed. Hence, further custodial interrogation of the applicant is not required.

8. As regards the objection raised by the learned APP on the ground of antecedents, it is settled law that mere pendency of

criminal cases or past antecedents cannot, by itself, be a ground for denial of bail, particularly when no prima facie case is made out in the present matter. Each case must be assessed on its own facts, and the liberty of an individual cannot be curtailed solely on the basis of unproven allegations of past conduct.

9. The applicant has been in custody since 8th May 2023, and the trial is not likely to conclude in the near future. Continued detention, in such circumstances, would amount to pre-trial punishment, which is impermissible in law. The apprehension of the prosecution that the applicant may tamper with evidence or abscond can be taken care of by imposing suitable conditions.

10. In view of the above discussion, this Court is of the opinion that the applicant has made out a case for grant of bail.

11. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No. 283 of 2023 registered with Bandra Police Station, for offences punishable under Sections 328 and 382 r/w 34 of IPC, upon furnishing a personal bond of ₹25,000/- (Rupees Twenty-Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
 - (a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or

intimidate any witness.

(b) The applicant shall report to the Bandra Police Station twice a month, specifically on the 1st and 15th day of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not leave the territorial jurisdiction of the State of Maharashtra without prior written permission of the Trial Court.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

12. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)