

VRJ

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

BAIL APPLICATION NO.3553 OF 2024

VAIBHAV
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Sampatraj Gevarchand Jain

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Ashish Shukla with Prachish Shukla, A. Mishra and
Aman Singh for the applicant.

Ms. Mahalakshmi Ganapathy, APP for the State.

CORAM : AMIT BORKAR, J.

DATED : JULY 8, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on bail in connection with Crime No. 545 of 2023 registered with Bandra Police Station. The applicant is accused of committing offences punishable under Sections 328, 379 read with 34 of the Indian Penal Code, 1860, which relate to causing hurt by means of poison or similar substances and theft in furtherance of common intention.

2. The case of the prosecution, in brief, is that on 24th March 2023, the applicant along with a co-accused allegedly took a rickshaw ride from Bandra Railway Station to Bandstand around 3:00 p.m. At that location, they are stated to have offered the

complainant a Frooti drink. After consuming the said drink, the complainant became unconscious and fainted. It is alleged that, taking advantage of the complainant's condition, the applicant and the co-accused stole a gold chain valued at ₹64,000 and an Oppo mobile phone worth approximately ₹6,000 from him, resulting in a total loss of ₹70,000. Initially, the First Information Report (FIR) was registered against unknown persons.

3. Learned advocate appearing on behalf of the applicant has submitted that the gold chain alleged to have been recovered from the applicant is one which was in his possession even prior to the registration of the FIR. It is also argued that the weight of the recovered chain does not match the weight mentioned in the FIR, thereby casting doubt on the prosecution case. It is further submitted that the applicant was arrested on 22nd May 2023, i.e., almost two months after the incident. The learned advocate contends that there is no medical or scientific evidence to support the offence under Section 328 IPC, especially when there is no toxicology or chemical analysis report to show that any stupefying or poisonous substance was administered to the complainant. Moreover, it is argued that no Test Identification Parade (TIP) has been conducted, which weakens the case of the prosecution regarding the identity of the accused. Hence, it is prayed that the applicant be released on bail.

4. On the other hand, the learned Additional Public Prosecutor (APP) has opposed the bail application. He has pointed out that the applicant has as many as 22 criminal antecedents registered against him, which shows his habitual conduct. It is also submitted

that the recovered gold chain bears the applicant's name, and therefore, the recovery is a strong incriminating circumstance connecting the applicant with the present crime. The learned APP contends that these facts are sufficient to show the applicant's involvement in the offence.

5. I have carefully considered the submissions advanced by the learned advocate for the applicant and the learned APP, and I have perused the material available on record.

6. It is not in dispute that the FIR was initially registered against unknown persons, and the applicant was arrested almost two months after the incident, i.e., on 22nd May 2023. From the case papers, it appears that there is no chemical analysis or medical report on record to prima facie establish that any stupefying or intoxicating substance was administered to the complainant to attract the rigours of Section 328 IPC.

7. As regards the recovery of the gold chain, it is the case of the applicant that the chain was already in his possession prior to the registration of the FIR and that its weight does not match the description in the FIR. These aspects raise a doubt at this stage, especially when the identity of the accused has not been confirmed through a Test Identification Parade, which, in such cases, is an important investigative step and its absence weakens the prosecution case.

8. It is true that the applicant has several past criminal antecedents to his discredit. However, it is a settled position in law that mere pendency of previous cases or past history cannot be the

sole ground to deny bail, unless there is material to show that the accused is likely to tamper with the evidence, threaten witnesses, or flee from justice. In the present case, no such apprehension is expressed or supported by material.

9. The applicant is in custody since 22nd May 2023, and further custodial interrogation does not appear to be necessary. The charge-sheet is already filed. Therefore, his continued detention is not warranted, especially when the trial is likely to take considerable time.

10. In view of the above circumstances and applying the settled principles governing the grant of bail, I am of the opinion that this is a fit case to grant regular bail to the applicant, subject to appropriate conditions.

11. Hence, the following order is passed.

12. The applicant Sampatraj Gevarchand Jain is directed to be released on bail in connection with Crime No.545 of 2023 registered with Bandra Police Station for offences punishable under Sections 328, 379 and 34 of the Indian Penal Code, 1860, upon furnishing a personal bond of Rs.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 the evidence or attempt to influence any witness.
- b) The applicant shall appear before the Trial Court on

every date of hearing unless prevented by sufficient cause.

c) The applicant shall report to the Bandra Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

13. The bail application stands disposed of in the aforesaid terms.

(AMIT BORKAR, J.)