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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4826 OF 2026

Sameer Ashok Bhagwat .. Petitioner

Versus

State of Maharashtra .. Respondent

.....

- Mr. Ravishankar B. Thombare, Advocate for Petitioner
- Ms. Shilpa G. Talhar, APP for State

.....

CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 22, 2026

P. C.:

1. Heard Mr. Thombare, learned Advocate for Petitioner and Ms. Talhar, learned APP for State.

2. Petitioner is arraigned as accused No. 3 in the present crime. Principal accused is accused No. 1 who committed dacoity on 01.03.2011 in Mumbai, details of which are given in memorandum statement dated 23.03.2011 appended at page No. 149 of Petition. The manner in which the said operation was carried out is stated by him and it is *prima facie* seen that it is only he who has committed the said offence. However, in the extra judicial confession, he has stated that he came from Pune to Mumbai along with present Petition who is arraigned as accused No. 3 in the present crime.

3. Accused No. 3 is the vendor who is having his business in Pune, has house in Pune and resides there. Accused No. 1 states that on

01.03.2011, he was accompanied by Petitioner from Pune to Mumbai and before he could carry out the said dacoity in the flat of the Complainant, Petitioner got scared and ran away. The entire incident in question is described by him whereby and wherein he states that it was only he who confronted the victim - complainant and threatened her that he was suffering from HIV and he required money for his treatment and on that pretext, the victim parted with the cash which she had with her and also gave him some gold ornaments. Accused No. 1 thereafter states that he left the premises and sold the gold ornament to Accused no. 2 who is a goldsmith from whom the prosecution has recovered the same. The prosecution in its own wisdom carried out investigation and only when the case was ripe for hearing after more than 14 years thought of arresting the Petitioner before me. Petitioner is already enlarged on regular bail.

4. The indictment of the petitioner is only on the basis of the extrajudicial confession which is referred to and alluded to herein above and recorded in the year 2011 and his name is depicted only on page No. 4 of the same, albeit to the limited extent that he had accompanied the Accused no. 1 from Pune to Mumbai but in so far as the incident is concerned, there is no nexus whatsoever of the Petitioner with the same. Petitioner has therefore come before the Court for quashing of the complaint on merits qua him. If the case of

the prosecution is seen *prima facie*, there is no way that the Petitioner can be convicted in the present crime based on the prosecution case itself. In that view of the matter, applying the principles enunciated by the Supreme Court in paragraph No.102 of the decision in the case of ***State of Haryana & Ors. v. Ch. Bhajan Lal & Ors.***[1], Petitioner has made out a clear case for quashing. That apart in view of the decision of the Supreme Court in the case of ***Lovely Salhotra and Anr. v. State of NCT Delhi and Anr.***[2] partial quashing can be permitted and allowed.

5. In view of the above observations and findings, Petition stands allowed in terms of prayer clause (a) which reads thus:-

> *"a. To quash and set aside the FIR and the subsequent proceeding RCC No. 1296/2011 bearing CR No. 43/2011 registered with Kurar Police Station, District Mumbai for the offences punishable under 342, 452, 392, 394, 397, 411 and 34 of the IPC and further be pleased to quash subsequent proceedings emanating therefrom only for the present Petitioner."*

6. Writ Petition is allowed and disposed.

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[MILIND N. JADHAV, J.]

RAVINDRA MOHAN AMBERKAR

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Date: 2026.10.22 20:09:45 +0530

1 1992 AIR 604

2 Criminal Appeal No. 670 of 2017 decided on 10.04.2014