



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1905 OF 2023

Dipak P. Mali ...Applicant
Versus
The State of Maharashtra ...Respondent

Ms. Sana Raees Khan a/w. Mr. Aditya Parmar, Mr. Abhijeet Singh and Ms. Ruchita Rajpurohit, Advocates, for the Applicant.
Ms. S. S. Kaushik, APP, for the Respondent-State.
Mr. Rajkumar Kendre, A.P.I., Chaturshring Police Station, Pune, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 10th APRIL 2024

PC:-

1. Heard Ms. Khan, learned Counsel for the Applicant and Ms. Kaushik, learned APP for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

| | | |
|----|--------------------------------|---------------------------|
| 1. | C. R. No. | 253 of 2021 |
| 2. | Date of registration of F.I.R. | 27/05/2021 |
| 3. | Name of Police Station | Chaturshringi, Pune |
| 4. | Section/s invoked | 392 r/w. 34 of the Indian |

| | | |
|----|-----------------------------------|---|
| | | Penal Code, 1860 |
| 5. | Section/s invoked in Charge-sheet | 3(1) (ii), 3(2), 3(4) of the MCOC Act, 1999 |
| 6. | Date of incident | 27/05/2021 |
| 7. | Date of arrest | 05/06/2021 |
| 8. | Date of filing of Charge-sheet | 13/08/2021 |

3. As per the prosecution case, two persons were riding on a motorcycle and they snatched the chain of the complainant. It is the contention of Ms. Khan, learned Counsel for the Applicant that the role attributed to the present Applicant is that he was riding the said motorcycle while the pillion rider snatched the chain of the complainant. She submitted that the Applicant was arrested on 27th May 2021 and although the Applicant is incarcerated since about 3 years, there is no progress in the trial and even the charge is also not framed yet. She submitted that although the F.I.R. was lodged against unknown persons, even the Test Identification Parade (“T.I. Parade”) has not been conducted. As far as antecedents are concerned, she submitted that the Applicant has been granted bail in all cases and that he has not been convicted in any of the cases.

4. On the other hand, Ms. Kaushik, learned APP for the Respondent-State strongly opposed the Bail Application. She submitted that in the C.C.T.V. footage, the motorcycle which is seen, is recovered at the instance of the present Applicant. She submitted that said motorcycle is also a stolen one. She submitted that T.I. Parade has been conducted. However, the Complainant has not identified the Applicant. She submitted that there are 24 antecedents and therefore, the Bail Application be rejected.

5. Perusal of the record shows that, in the present case, the incident in question occurred on 27th May 2021, F.I.R. was lodged on 27th May 2021, the Applicant was arrested on 5th June 2021 and, Charge-sheet was filed on 13th August 2021. There is no progress in the trial and even the charges are also not framed yet. As per the Charge-sheet, there are 47 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

6. Although, it is the contention of Ms. Kaushik, learned APP that the motorcycle which is seen in the C.C.T.V. footage, is

recovered at the instance of the present Applicant, the Complainant has not identified the present Applicant.

7. Although the provisions of the Maharashtra Control of Organised Crime Act, 1999 (“MCOA”) have been invoked, all offences are of chain- snatching and therefore, *prima facie* rigors of Section 21(4) of the MCOA will not apply.

8. As there are 24 antecedents of chain-snatching registered with various Police Stations in Pune District, Ms. Khan, learned Counsel for the Applicant after taking instructions, states that the Applicant will therefore not reside within District - Pune and that the Applicant will reside at C/o. Ms. Preeti Ohal (Mobile No.7249390102), 3PV +4VF, Manik Chowk Road, near Asha Multiplex, Nalegaon, Ahmednagar, Maharashtra 414 001.

9. The Applicant does not appear to be at risk of flight.

10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

11. In view thereof, the following order:-

ORDER

- (a) The Applicant – Dipak P Mali be released on bail in connection with C.R. No.253 of 2021 registered with the Chaturshringi Police Station, District - Pune on his furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount, if not required in any other cases.
- (b) The Applicant shall not enter the Pune district after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.
- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Kotwali Police Station, District - Ahmednagar twice a week on every

Monday and Thursday between 11.00 a.m. and 1.00 p.m. for a period of six months and thereafter, once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Kotwali Police Station, District - Ahmednagar to communicate details thereof to the Investigating Officer.

- (e) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]