

(2021) 11 BOM CK 0067
In the Bombay High Court
Case No : Bail Application No.710 Of 2021

Pravin Raja Shinde

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision : 16-11-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 395, 417, 420

Citation : (2021) 11 BOM CK 0067

Hon'ble Judges : V. G. Bisht, J

Bench : Single Bench

Advocate : Vaibhav Gaikwad, P.P.Shinde

Final Decision : Allowed

Judgement

V. G. Bisht, J

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.71 of 2020 registered with Police Station Waduj, Satara, for offences punishable under Section 395, 417, 420 of the Indian Penal Code (IPC).

2 It is the case of prosecution that on 6th March 2020, at about 12.30 p.m., accused Alka Nilgir Shinde, resident of Paradhi locality lured the informant by telling him that she would give 750 grams of gold in lieu of Rs.3 lakh. When the informant went there with amount of Rs.3 lakh, it is alleged, said accused summoned other accused namely Renuka Patole, Nilgir Shinde, Pravin and other fifteen unknown male and female and brandishing sword and gupti forcibly removed mobile and gold ring and cash amount of Rs.3 lakh from the informant and informant's friend Rohit Waydande. The informant accordingly lodged the report.

3 Mr.Vaibhav Gaikwad, learned counsel for the applicant, submits that Alka Nilgir Shinde is the main accused and no specific role is attributed to the present

applicant. Even in the Test Identification Parade the applicant was not identified. There is no recovery from the applicant. Moreover, the injury certificate filed on record by the prosecution shows that the prosecution witness had suffered simple injuries. Lastly, learned counsel invited my attention to the affidavit filed by the informant before the trial Court wherein the informant stated that the name of applicant came to be given due to misunderstanding and he had no role to play in the incident. For all these reasons, the applicant deserves to be enlarged on bail, submitted learned counsel.

4 Smt.P. P. Shinde, learned APP, on the other hand, opposed the submissions by contending that the present applicant along with other accused was very much present at the time of incident. The learned APP also invited my attention to the affidavit filed by the Investigating Officer and more particularly paragraph 7 inviting my attention to the criminal antecedents against the applicant. There being no merit in the application, the same is liable to be rejected, argued learned APP.

5 Reading of First Information Report (FIR) would clearly show that the master mind behind the alleged offence is accused Alka Nilgir Shinde. Although she summoned other accused and with their help after beating the informant and his companion Rohit Waydande, they forcibly snatched cash amount of Rs.3 lakh, mobile handset and gold ring. It is also alleged that they were also assaulted by all the accused but then there is no specific role attributed to the applicant.

6 I have also gone through the injury certificate pertaining to the prosecution witnesses filed on record and it clearly shows that the informant and his friend Rohit Waydande had sustained simple injuries.

7 It is also not disputed by prosecution that in the Test Identification Parade the present applicant was not identified. There is no recovery from the applicant as well. Lastly, the affidavit of no other than the informant who has sworn the affidavit before Executive Magistrate, Kadepur by stating therein that the name of applicant came to be inadvertently mentioned and he had no role to play in the incident. I have gone through the impugned order of the learned trial Court but I do not find any discussion on this aspect although the said affidavit was very much filed before the learned trial Court by the informant.

8 Be that as it may, having regard to the material on record, in my considered opinion, applicant has made out a case for bail. However, the factor of criminal antecedents must be weighed qua the case in hand. I have already discussed the entire material on record and thus I am of considered opinion that the criminal antecedents should not be a hurdle in the way of applicant while granting him bail. In view of above, I pass the following order :

ORDER

(i) Applicant - Pravin Raja Shinde shall be released on bail in Crime No.71 of 2020 registered with Police Station Waduj, Satara, on his executing P.R.Bond in

the sum of Rs.25,000/-with one or two sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the Court proceedings regularly.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms and stands disposed off accordingly.