

Order below Exh-27 in Sessions Case No. 679/2015

This is an application filed by accused Ravindra Nathu Marne and Ankush Bankat Waghmare for releasing them on bail in C.R. No. 151/2015 registered under section 395 of I.P. Code in Warje Malwadi Police Station Pune.

2] It is the allegation of prosecution against them that on 23-5-2015 when the complainant was in his laundry shop and ironing to the cloths at about 4.30 p.m. Ankush Waghmare, Lakhan Waghmare Ravi Waghmare and one black colour person came near Delux Laundry and absued him. It is also alleged that the brother of complainant Yogesh Chaudhari and his friend were beaten by Ajay Bhalshankar and broken glasses of vehicle. It is also alleged that Ajay was standing outside the laundry and abusing to him and shouting to kill Amrut Chaudhari. As per say of Ajay, Ankush Waghmare assaulted the complainant with sword. Accused Lakhan Waghmare, Ravi Waghmare and his friend Sanjay Gokhale broken the glasses of laundry by planting bricks on laundry. It is also alleged that they have stolen his golden chain and Mangalsutra of Sou. Jayashree Kamthe.

3] It is his contention that since arrest they are in jail. They are permanent resident of address given in the application. They had no criminal antecedent. They are innocent and falsely implicated in the crime. They are no where concerned with the alleged offence. Sufficient opportunity has been given to the prosecution for

investigation. Therefore, now there is no need of their further custody. It will be pre-punishment to them, without facing any trial, if not released on bail. They are ready to abide all terms and conditions which will be imposed on them while releasing on bail. They undertake that they will not tamper with the evidence of prosecution and attend the court or police station as and when necessary as directed. They are teenagers and if kept in jail for so long time, their carrier will be spoiled. On all above grounds it is requested that they be released on bail.

4] The I.O. and APP has strongly resisted the application by filing their written say vide Exh- 30. It is submitted that the accused have not given information regarding the weapon sword used in the offence and the stolen ornaments. The other accused Lakhan @ Laxman Bankat Waghmare – is brother of accused Ankush, he is not yet traced out, he is absconding. The chargesheet against Ajay Rama Bhalshankar and Sanjay Shankar Gokhale had already forwarded into the court. The supplementary chargesheet is also submitted against the applicant/accused. If the accused are released on bail, there will be possibility of serious offence at their hands. Earlier bail applications of the applicant accused are rejected. On all above grounds, it is submitted that application be rejected.

5] Heard advocate of applicant at length and APP for the State. Adv. of applicant relied on the ruling reported in **Laxman Irappa Hatti and another Vs. State of Maharashtra 2004 ALL MR (Cri) 3073** wherein it is held

that,

An order refusing an application for bail does not necessarily preclude another on a later occasion giving more material, further developments and different considerations. While the Court should set store by the circumstances that the bail application was once rejected and it cannot be said that the court is barred from second consideration at a later stage.

6] On going through the record and proceeding, it appears to me that all accused and absconding accused are prosecuted for the offence punishable under section 395 of I.P. Code. Initially the chargesheet has been filed against accused Ajay Rama Bhalshankar and Sanjay Shankar Gokhale by showing accused Ankush Vyankat Waghmare, Lakhan Vyankat Waghmare, Ravi Nathu Marne as an wanted accused. Thereafter the supplementary charge-sheet has been filed against present applicants/accused by showing Lakhan @ Bankat Waghmare as wanted accused. Thus, it is clear that yet one accused is not arrested.

7] The record and proceeding also reveals that earlier both applicant accused have been filed bail application No. [2039/2015](#) under section 438 of Cr.P.C. in crime No. 151/2015 which has been rejected on 13-7-2015. Further the applicant accused have filed one another application No. 4225/2015 which has been also rejected on dated 30-11-2015.

8] As per the ratio's of the rulling cited by the advocate of applicant/accused the accused have every right

to file fresh bail application after change in circumstances. It is fact that while rejecting earlier application of bail the chargesheet has not been filed against them and investigation was in progress. At present, the supplementary charge-sheet is filed against them by showing one accused namely Lakhan @ Bankat Waghmare as wanted, who is the brother of one of the present applicant/accused.

9] It is the grievance of the prosecution that the applicant/accused are the main accused. On perusal of the investigation paper, it reveals that there is strong prima facie case against the accused. Further it is also fact that yet the muddemal involved in the crime has not been recovered and one accused is yet to arrest by the I.O. Thus, though the chargesheet and supplementary charge-sheet have been filed against the accused, the investigation is not yet completed as one accused is yet to be arrested, and muddemal to be recovered.

10] Considering all these aspects, seriousness of offence, submission of both sides and involvement of present accused in the crime and as their earlier order of rejection of bail are still in existence, which has not been challenged before the Superior Court, I am of the opinion that, though the applicants are entitled to file fresh bail applications on change in circumstances, still this is not the fit and proper stage to release them on bail as prayed. If at this stage the accused are released on bail by imposing some conditions upon them then certainly there will be hurdle in the line of

investigation. In the result, I pass the following order -

ORDER

Application is rejected.

[Dictated and Pronounced in open Court.]

Date – 18-02-2016

(B. Y. Kale)
Addl. Sessions Judge, Pune