

Order below Exh. 19 in Sessions Case No. 856/2017

(State Vs. Pranav Chandgude & ors)

This is successive bail application u/s 439 of Cr.P.C. by the applicant /accused No. 3 Pranav Chandgude seeking his bail on the ground of parity. Previous bail application was rejected.

2) It is contended that he is in Magisterial custody in crime No. 22/2017 u/s 380, 411, 413 of IPC of Warjermalwadi Police station alongwith other accused persons. It is stated that seizure of property by investigating agency is under section 27 of Evidence Act. It is further stated that he has been falsely implicated in this case though he has not committed any crime.

3) It is stated that another accused Shrikant Zagade who has same role in commission of crime, has been released on bail and hence on the ground of parity, this applicant / accused is also entitled to be released on bail and he is ready to abide by all the conditions imposed on him.

4) APP has strongly opposed for release of the accused stating that the offence is serious one and has deep involvement of accused. It is stated that on the confession of the accused, the property is recovered under section 27 of Evidence Act. He has committed theft of total 33 gold ornaments worth Rs. 4,47,000/-. Hence, he is habitual offender and has committed similar kind of

offences. If he is released on bail there is likelihood of his absconding which will hamper the trial and hence the application be rejected.

5) Following points arise for determination and I record the findings against each of them for the reasons recorded below.

Sr. No.	Points	Findings
1)	Whether the applicant / accused No. 3 Pranav Chandgude is entitled for release on bail as prayed ?	In negative
2)	What order ?	Application is rejected as per final order

REASONS

As to Point No. 1 :-

6) Heard both sides. Perused the record. The Advocate for the applicant / accused and APP has argued in consonance of their pleadings. The applicant / accused has been charge-sheeted under section 454, 457, 380, 411 and 413 r/w 34 of IPC along-with other accused. The role of the present accused is under section 454, 457 and 380 r/w 34 of IPC along-with accused Nos. 1 and 2 whereas the role of accused No. 4 is under section 411 and 413 of IPC. It is contended by the Advocate for the applicant / accused that leaving the offence u/s 413 which is not the role of present accused, all other offences are triable by Magistrate court. It is

stated that rest of the accused are released on bail and he is still in magisterial custody, so parity to be considered for him.

7) It is the case of prosecution that the offence u/s 454, 457 and 380 has been committed by the applicant / accused No. 3 and to dispose of the property he has taken help of accused Nos. 1 and 2, which is received by the accused No. 4. It is mentioned here that the discharge application of accused No. 4 Balaji Shinde who has been charge-sheeted by the prosecution u/s 411 and 413 of IPC for habitually receiving the stolen property knowing that it is stolen, has been rejected vide order dated 08/02/2019.

8) The crime spot panchanama vide section 27 of Evidence Act is at the instance of applicant / accused No. 3 himself. Similarly, the accused No. 1 Kamlesh Mekar has shown the shop of goldsmith i.e. accused No. 4 who has received the stolen properties. Accused No. 2 Shrikant Zagade and accused No. 1 Kamlesh Mekar have helped the accused No. 3 in selling the stolen property to accused No. 4.

9) It is contended by the Advocate for the applicant accused No. 3 that he is college student and wants to secure the admission for his further studies but no document is annexed with this application to show that he is bonafide student of any of the college and intend to secure admission. Moreover, nothing has been stated as to in which college he wants to secure the admission

and for which study course. There is nothing mentioned in this application about the same neither has stated as to why he has not taken any such steps for securing the admission on earlier occasion.

10) It is seen that the present accused is not only involved in single offence but in series of similar kind of offence i.e. lurking house trespass or house breaking during night time i.e. after sunset and before sunrise. From the disclosure statement of applicant / accused No. 3 given to the police, it is seen that all the incidents of lurking house trespass or house breaking are done by him single handedly. The role of accused Nos. 1 and 2 only in introducing accused Nos. 3 to accused No. 4. Accused Nos. 1 and 2 are not involved in actual act of house trespass and housebreaking for theft, it was an exclusive act of accused No. 3.

11) It is stated by the Advocate for the accused that as accused Nos. 1, 2 & 4 are released on bail, he is also entitled to be released on the ground of parity. However, it is stated here that the act of the applicant / accused No. 3 under section 454, 457, 380 of IPC is single minded and single handed. Hence, the mens rea is of greater degree than the other accused. The applicant accused is involved in chain of similar kind of offences and in these circumstances he, going to abscond, if release on bail, cannot be ruled out. It is contended by the APP that cases pending against the accused before this court are not only the cases against him, there are many other cases pending in other courts for similar kind of

offences.

12) It is to be stated here that the cases against the accused in another court cannot be the reason for denying the bail to him but the cases before this court itself are to be considered which are of serious nature as discussed above. Hence, I do not find any reason to release the accused on bail on the ground raised by him. Hence, I answer the point No. 1 in negative and proceed to pass following order.

ORDER

- 1) The bail application Exh. 19 by the applicant / accused No. 3 Pranav Chandgude is hereby rejected.
- 2) Matter to proceed further.

Sd/-xxx

(Mrs. Sharayoo V. Sahare)

Asstt. Sessions Judge Pune.

Date: 07/05/2019

Spb/-

I Affirms that the contents of this PDF file Judgment are same word for word as per Original Judgment.

Name of Steno: Smt. S.P. Bhagwat, Stenographer Grade -II

Court's name: Asstt. Sessions Judge, Pune.

Date of Judgment : 07/05/2019

Judgment signed by Presiding officer on: 07/05/2019

Date of P.D.F. : 08/05/2019.