

ORDER BELOW EXH. 26
(Date 19/09/2019)

This is an application under Section 439 of the Code of Criminal Procedure by accused No. 3 Pranav Vikas Chandgude on the ground that, he has been granted bail by another Court in similar kind of offences and hence he be release on bail in this matter on the ground of parity as he is in jail since last 02 years.

2. It is contended by the Adv. for accused that, offence was registered against accused by Warje Malwadi police station under Section 380, 411, 413 of Indian Penal Code. He was arrested by Uttamnagar police station and various other offences were made against him and since then he is in Magisterial Custody. It is stated that, another Court has granted him bail, wherein modus-operandi is shown similar by the prosecution as stated in the present case. It is stated that, other accused persons in this matter are already on bail. It is further stated that, offences mentioned in charge-sheet do not attracted against the accused as there is no material and conclusive evidence against him. It is further stated that, no recovery is done from him and is being involved only on suspicion.

3. It is further stated that, accused is 21 years old and his family is dependent on him. He agrees to co-operate with the trial. He undertakes to abide all the conditions imposed and request for release on bail.

4. The application is strongly opposed by the A.P.P. by filing reply at Exh. 29 stating that, accused has committed serious

offences and is habitual offender. It is further stated that, there is seizure of gold and silver ornaments under Section 27 of Indian Evidence Act from the accused and he has committed many other similar offences. Moreover, his previous bail applications have been rejected and this application be also reject as he made abscond if release on bail and may hamper the trial.

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

Sr. No.	Points	Findings
1.	Whether accused No. 3 Pranav Vikas Chandgude is entitled for release on bail, as prayed?	In the affirmative.
2.	What order?	As per final order.

REASONS

6. Heard the Adv. for accused and A.P.P. It is contended by the Adv. for accused that, police have imposed many other similar matters against him. It is stated that, he is studying and have to pursue his studies. Moreover, he is the only person to look-after his family. It is further stated that, he has been granted bail in 10 similar matters by another Court. Hence, he request for release on bail on parity.

7. On the other hand, the A.P.P. argued that, the accused is habitual offender. Gold and Silver ornaments have been recovered

from him. It is further contended that, previous 02 bail applications of the accused have been rejected and no new ground has been shown by him to consider same. Hence, the application be rejected.

AS TO POINT NO. 1 :

8. Perused the record. It is seen that, accused has been charge-sheeted under Section 454, 380, 411, 413 r/w.34 of Indian Penal Code along-with other 03 accused by Uttamnagar police station in Crime No. 22/2017. All other 03 accused Nos. 1, 2 and 4 are already released on bail. The present accused has been charge-sheeted for lurking house trespass and house breaking to commit the theft in dwelling house of the complainant during day time wherein offence was committed breaking the lock of safety door and main door the cupboard were ransacked and gold ornaments worth Rs.34,000/- were stolen.

9. It is contended by the Adv. for accused that, F.I.R. was lodged against unknown person and thereafter, present accused was made involved in the case. It is stated here that, as per the complaint, theft occurred in the house when it was locked. On this count, the F.I.R. would be against unknown persons only.

10. It is further contended by the accused is that, he is student and wants to pursue his studies. But there is no such ground mentioned in the application nor any document is placed on record to show that, he was pursuing his studies, prior to taking him in custody.

11. It is admitted position that, he has in Magisterial custody since last 02 years and his previous 02 bail applications have been rejected. It is also to be stated here that, his discharge application was rejected on 25/06/2019, but he has not preferred any revision challenging the same.

12. From the contents of the charge-sheet, the prosecution story is that, the accused No. 3 caused house breaking theft, wherein the F.I.R. is against unknown person. It is seen that, one Memorandum of accused is recored in all 10 cases pending before this Court which is in respect of showing the spots/houses where he has allegedly caused theft.

13. Recovery under Section 27 of Indian Evidence Act is from accused No. 4 Balaji Mukutrao Shinde. The discharge application preferred by Balaji Shinde was rejected on 08/02/2019. He has challenged the said order before Hon'ble High Court vide Criminal Revision No.130/2019. The matter will take its own course of time to be decided.

14. It is to be stated here that, the prosecution story is that the present accused has done all the incidents of lurking house trespass and house breaking single handedly. It is for the prosecution to prove that, all accused had mens-rea to commit the offence. Though the statement of accused is recorded about showing the houses wherein he has committed house breaking theft, no weapon used for house breaking is being seized by the police from him.

15. Accused Nos. 1, 2 and 4 are already on bail. Accused No. 4 has challenged the order before Hon'ble High Court, of rejection of his discharge application. It will take its own course of time. Present accused is in jail since 12/09/2017. Due to various applications of either of the accused persons, the charge cannot be framed and trial cannot be proceeded further. The accused has shown resident of Pune within jurisdiction of this Court. As much time has been passed and trial could not commence, the accused can be released on bail with sureties to secure his presence by imposing certain conditions on him. It will not be fair enough to keep him in custody as charge can not be framed due to application of accused No. 4 being pending before High Court. Hence, I answer point No. 1 in affirmative and proceed to pass the following order.

ORDER

1. Application is allowed.
2. The accused No. 3 Pranav Vikas Chandgude is released on executing P.R. Bond of Rs. 30,000/- (Rs.Thirty Thousand Only) with one or two solvent sureties in like amount along-with cash security of Rs.10,000/- (Rs.Ten Thousand Only).
3. The accused shall not tamper evidence nor threatened the prosecution witnesses.

4. The accused shall give his authenticated address proof along-with address proof and mobile numbers of two of his relatives.
5. The accused shall not leave limits of Pune District without permission of this Court and intimation to the Uttamnagar police station.
6. The accused shall not misuse this order, following which the order stands canceled.

Date : 19/09/2019

(Mrs. Sharayoo V. Sahare)
Addl. Sessions Judge, Pune.

“I affirm that the contents of this P.D.F file Order are same word for word as per original Order.

Name of the Steno : Smt. K.C.Berad (Grade I)

Court Name : District Judge- 20, Pune.

Date : 19.09.2019

Order signed by presiding officer on : 21.09.2019

Order uploaded on : 23.09.2019.”