

ORDER BELOW EXH. 4

This is bail application filed by the accused Pradip Bhaiyyalal Bisen, arrested on 27.04.2023 in Crime No. 174/2023 registered at Saswad Police Station, for offences punishable under Section 392, 395, 34 of I.P.C. and Section 3(25) of Arms Act.

2. Perused the application, reply filed by prosecution and charge-sheet.

3. Informant Mazhar Inamdar lodged F.I.R. on 26.03.2023. He alleged therein that on 26.03.2023 at about 1.00 a.m. he was proceeding on motorcycle from Pangare Ghat towards his house at Pangare, Tal. Purandar from Khed-Shivapur. At that time three people obstructed him and he stopped the motorcycle. Two persons out of three, were having pistols. One of them forcibly took away his mobile and purse from his pocket and they also forcibly took his motorcycle and went away on that motorcycle.

4. During investigation of the crime, it revealed that there were five accused, who committed above said crime. It is alleged that present accused and one Pawan Vishwakarma stopped at some distance from other three accused and then told to those three accused on mobile that a motorcycle is coming towards them and thereafter those three accused committed above said crime. Only

present accused and Pawan came to be arrested in this crime by taking their custody from other crime. Other three accused are still absconding.

5. Learned advocate for accused argued that investigation of the crime is already over, the accused is in jail for more than one year and his further detention in jail is not necessary. The F.I.R. disclose that only three accused committed the crime and therefore, Section 395 of I.P.C. is not applicable. The accused is ready to face the trial and abide conditions of bail in case he is released on bail.

6. Learned A.P.P. argued that all accused absconded after commission of crime. Other accused Pawan Vishwakarma is caught by people while accused were committing dacoity in a jewelry shop and thereafter present accused came to be arrested. Considering such facts of the case, he further argued that there is possibility that the accused will repeat the crime, in case he is released on bail. He further argued that the accused is from Gondia and therefore, he will not face the trial, in case he is released on bail. Lastly he submitted that, charge-sheet revealed that there are only 13 witnesses and trial of the case can be concluded within couple of months.

7. Available record reveal that the F.I.R. alleged that three accused committed the crime. Thereafter, motorcycle of the

informant was found unclaimed at Puram Chowk, Khau Galli, Pune. The available record further revealed that on 31.03.2023 at about 6.45 p.m. four accused went in a jewelry shop at Supa, Tal. Baramati, Dist. Pune and they threatened the people there by showing pistols and forcibly taken gold ornaments worth Rs. 12,23,200/-. When people made attempt to caught them, they also fired and some people injured. But, people succeeded to caught another accused Pawan Vishwakarma and other accused went away in Kia car. Then with the help of said accused Pawan, present accused came to be arrested in that crime. Then their custody was transferred in present crime and they admits commission of present crime with the help of three other accused. In such facts, there is substance in the argument of learned A.PP. that the accused may repeat the crime in case he released on bail. Similarly, he is resident of Gondia and therefore, there is possibility that he will not face the trial, in case he is released on bail. Lastly, considering 13 number of prosecution witnesses, as per charge-sheet, the trial can be concluded within short period, in case accused and his learned advocate co-operate. Thus, it is not a case which could not be adjudicated within short period.

8. In view of all above facts of the case and the reasons mentioned supra, it is not the fit case to use discretion to release the accused on bail. Hence, following order is passed.

CNR-MHPU01-018410-2020

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SESS.CASE NO. 1125/2023

O R D E R

Application Exh. 4 is rejected.

Date : 15.05.2024

(V. D. Nimbalkar)
Addl. Sessions Judge, Pune.

CERTIFICATE

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

Name of steno : Smt. N. A. Surve

Name of the Court : Shri V. D. Nimbalkar
Additional Sessions Judge, Pune.

Date of Order : 15.05.2024

Order signed by P.O. on : 15.05.2024

Order uploaded on : 15.05.2024