

MHPU140027622020



Sessions Case No. 127/2020

Prakash Pandurang Gorgal

Vs.

State of Maharashtra

ORDER BELOW EXH.76

This regular bail application has been filed by the applicant-accused under Section 439 of the Code of Criminal Procedure in connection with Crime No. 421/2020 registered for the offences punishable under Sections 394, 395, 397, 120-B of the Indian Penal Code, at Daund Police Station.

2] The prosecution case in nutshell is as under :-

On 29.08.2020 informant Sagar Mahajan was called by his master at about 6.30 p.m. and directed him to go to Solapur for purchasing maize. He also directed to take Ganesh Jadhav as cleaner along with him. He handed over one blue coloured cloth bag containing cash amount of Rs. 29,74,000/-. The said bag was stitched from all sides. Accordingly, informant proceeded towards Solapur. When he was passing the water reservoir at Malad one black coloured motorcycle followed them. The motorcycle rider was giving him signal to stop. Accordingly, informant stopped his vehicle in the light of Hotel Vrindavan Garden. The said motorcycle was in front of his vehicle. There was another motorcycle standing at some distance. One of the motorcyclist opened

the driver side door and pull out the key and the another person pulled driver i.e. informant. At the same time, the other person entered in his vehicle and sat on the driver sit. Other two persons pulled him in front of tempo. They assaulted him by slaps and pushed him in a ditch by the side of the road. When he came out of the ditch, he saw that the person who was sitting on the driver sit was running holding the cloth bag. All the accused persons ran towards Solapur on their motorcycles. Informant also ran and tried to chase the motorcycle. He caught hold the shirt collar of one of the pillion rider. The accused raised the motorcycle. Therefore, informant fall on the ground and sustained injuries over his knee. The said incident took place at about 7.45 p.m. All the four accused persons were of 5.5 feet high. Informant while lodging report gave the description of the cloths worn by the accused persons. Hence, the report.

3] The applicant-accused contended that he is innocent. He did not commit any offence. He has falsely been implicated in the crime. Seven co-accused persons have already been released on bail. All the incriminating articles and cash amount have already been seized. The investigation is completed and charge-sheet has been filed. No fruitful purpose will be served by keeping him behind the bars. This is the second bail application on the ground of parity. He is ready to abide by the conditions imposed upon him. Hence, prayed to allow the application.

4] The Investigating Officer opposed the application by filing say at Exh. 77. It is contended that the offence is serious one. The applicant-accused has been identified by the witnesses during Test Identification Parade. All the accused persons have looted amount of Rs. 29,74,000/-. There are other offences registered against him. He is an habitual offender. Rs. 10,38,200/- cash has been recovered from him during his custodial interrogation as per the memorandum panchnama carried out under section 27 of the Indian Evidence Act. If released on bail, applicant-accused may commit similar type of offences, tamper prosecution evidence or may flee away. Hence, prayed for rejection of application.

5] Ld. A.P.P. also objected the application on the similar grounds by filing his say on the overleaf of the application (Exh. 76) itself. It is contended that during custody cash amount has been seized as per the memorandum statement of present applicant-accused. There are eye witnesses to the incident. He has been identified during Test Identification Parade. His previous bail application has been rejected after filing of the charge-sheet. Hence, there is no substantial change in circumstances. There are many offences registered against him. Therefore, prayed to reject the application.

6] Heard learned Advocate Mr. R. J. Kokare for the applicant-accused and learned A.P.P. Mr. P. G. Joshi. I

perused the documents on record. Present applicant-accused had filed Criminal Bail Application No. 16/2021, which came to be rejected by this Court on 19.01.2021.

7] Ld. Advocate for the applicant-accused has submitted that all the co-accused persons have been released on bail. Therefore, there is substantial change in circumstance and applicant-accused is entitled for the bail on the ground of parity.

8] The record shows that co-accused No. 4 Jadya @ Paigambar Tayyub Mulani has been released on bail by the Hon'ble Bombay High Court vide Order passed in Criminal Bail Application No. 1576 of 2021, dated 05th April, 2022. The role played by the present applicant-accused is similar with that of the other co-accused. Similarly, co-accused No. 5 Akya @ Akshay Wavare and others have also been released on bail. These accused persons were also identified during Test Identification Parade as well as there is recovery at their instance during their physical detention.

9] The record shows that the applicant-accused is resident of Daund, Dist. Pune. It is the settled position of Law that even if other offences are registered against the accused, still he is entitled for bail. Therefore, considering the facts and circumstance in the light of bail orders of other co-accused the application deserves to be allowed on the ground

of parity. So far as apprehension raised by prosecution is concerned, imposition of stringent conditions may suffice the purpose. Hence, the order.

ORDER

1. This bail application is allowed.

2. The applicant-accused namely **Prakash Pandurang Gorgal** be released on bail on his executing P. R. Bond of Rs. 25,000/- with one or two solvent sureties of like amount only in this Crime No. 421/2020 registered for the offences punishable under Sections 394, 395, 397, 120-B of the Indian Penal Code, at Daund Police Station, on the following conditions :-

- A) He shall not tamper with prosecution evidence in any manner.
- B) He shall not threat the prosecution witnesses and victim.
- C) He shall not commit similar type of offence.
- D) He shall not leave India without prior permission of the Court.
- E) He shall comply with Chapter I Paragraphs 1 to 6 of the Criminal Manual 1980 (In view of order of the Hon'ble High Court passed in Criminal Application No. 28 of 2010 in Public Interest Litigation No. 25/2010 on January 29, 2020).
- F) He shall furnish his permanent address with proof.
- G) He shall undertake to remain present before the Court during the course of trial, unless exempted.

3. If he disobeyed any of the above conditions, the prosecution is at liberty to move the Court for cancellation of bail.

Date :- 05.09.2022.

(J. P. Darekar)
Additional Sessions Judge,
Baramati.

CERTIFICATE

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

Name of Stenographer : I. E. Deshmukh
Stenographer (G-1)

Court Name : J.P. Darekar
Additional Sessions Judge,
Baramati, Dist. Pune.

Date of Order : 05.09.2022

Order signed by
Presiding Officer : 05.09.2022

Order uploaded on : 05.09.2022