

MHPU140030492022.



SESSIONS CASE NO. 193/2022.

State of Maharashtra

Vs.

Kiran @ Sonya Yuvraj Kale

ORDER BELOW EXH.6

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. 551/2021 registered for the offence punishable under sections 395 and 397 of the Indian Penal Code at Daund Police Station.

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

On 16.10.2021 the informant lodged report that on the previous night at about 10.30 p.m. he along with his family members slept after locking the door of the house from inside. He had kept the light on. He had also locked the safety door and the shutter. In the midnight at about 3.30 a.m. he felt that somebody has sat on his person. Therefore, he woke up. Suddenly, the person who had on his person assaulted on his face with iron rod. As a result, he sustained injuries on his lips. One of his tooth broke. He was frightened, therefore he told those person to take away whatever they want but don't assault. He noticed that there were another four unknown persons in his room. One was standing near a shutter. All those were holding weapons like iron rod, knife and *Katavani*. They all broke open the cupboard, took out cash amount of Rs. 45,000/- and gold ornaments from the person

of his wife. All those persons were from the age group of 22 to 30 years. They were speaking Hindi and Marathi language. While committing the offence one of the person had spoken in Hindi to give all the articles and to tell the places where it is kept. He also abused them. The other one who was standing near bed, threatened small children to assault with the iron rod. They also took the silver ornaments from the room. Thereafter, they left his house by latching the door from outside. After getting confirmed that those persons were out, he raised alarm, consequently his neighbours rushed. 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 said crime. There is no direct or indirect evidence against him. No specific role has been attributed against him. There are no eye witnesses to the incident. He was not arrested on the spot. Investigation is completed and charge-sheet has been filed. Section 395 of the Indian Penal Code is not attracted to the facts of the present case. He is the only bread earning member of his family. His wife, small children and old parent are dependent upon him. Nothing has been recovered during his custodial interrogation. He is permanent resident of the address mentioned in the title column of the application. He is ready to abide by the conditions imposed upon him. Hence, prayed to allow the application.

4] The Investigating Officer has filed his say at Exh. 7 and resisted the application. It is submitted that the offence is serious one. During the custodial interrogation of the accused silver and gold ornaments have been recovered. Co-accused Nos. 3, 4 and 5 are still absconding. The Test Identification Parade of the accused persons have not been conducted yet. 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] The Ld. A.P.P. has filed his say on the overleaf of the application itself. It is submitted that the offence is serious one. Accused gave memorandum statement pursuant to which gold and silver ornaments have been recovered. Yet the Test Identification Parade has not been conducted. Rest of the accused persons are absconding. There is ample evidence against him. 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.

6] Heard learned Advocate Mrs. Vaishali Ugale-Bhosale for the applicant-accused and learned A.P.P. Mr. P. G. Joshi for the State. It is pertinent to note that the F.I.R. has been registered against five unknown persons. Similarly, there were same incidents in some other houses too. The statements of the witnesses have been recorded. During custodial interrogation, co-accused gave memorandum statement and had shown the houses where they committed the dacoities. Further, some gold earrings i.e. studs and silver

anklets have been seized during custodial interrogation of the present applicant-accused. Further, the Investigating Officer has sought for the permission for conducting Test Identification Parade and it was so granted on 01.07.2022 but still the report has not filed on record.

7] Ld. Advocate for the applicant-accused has submitted that mere recovery of some of the articles and non conducting Test Identification Parade are no grounds to reject the application. In support of her submissions she has relied on following citations:

- 1- *A. Manoj Kumar and another Vs. State of Karnataka, [2011(3) AIR KAR R 421],*
- 2- *Mahesh and others Vs. The State of Maharashtra, [2021(2) AIR Bom.R (Cri) 163]*
- 3- *Jamil Ahmad Vs. State of Uttarakhand [2021(3) NCC 201]*

All these ratios are considered while deciding the present application.

8] Further, the name and addresses of the absconding accused have already been revealed to the Investigating Officer. The say of the Investigating Officer is silent as regard to the criminal antecedents of the present applicant-accused. Furthermore, no fruitful purpose will be served by keeping him behind the bars. As such considering the facts and circumstances, the application deserves to be allowed with conditions. Hence, the order.

ORDER

1. The bail application is allowed.
2. Applicant-accused namely Kiran @ Sonya Yuvraj Kale be released on bail on his executing P. R. Bond of Rs.25,000/- with a surety in like amount only in this Crime No. 551/2021 registered for the offence punishable under sections 395 and 397 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 leave India without prior permission of the Court.
 - C) He shall attend the concerned Police Station as and when called by the Investigating Officer .
 - D) He shall not contact with the informant or any person related to him or prosecution witnesses by any means till completion of recording of evidence.
3. If he disobeyed any of the above conditions, the prosecution is at liberty to move the Court for cancellation of bail.

Date :- 29.11.2022.

(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 : 29.11.2022

Order signed by

Presiding Officer : 29.11.2022

Order uploaded on : 30.11.2022