

MHRG170021802024



ORDER BELOW EXH. 15
IN SESSIONS CASE NO.141/2024
KHARGHAR POLICE STATION C.R.NO.217/2024
THE STATE OF MAHARASHTRA -V/S. - RAJ @ MOHAMMAD
ASIF GALIB SHAIKH AND OTHERS
(PASSED ON 13th DAY OF JANUARY, 2025)

This application is on behalf of the applicant/accused No.1 – Raj @ Mohammed Asif Mohammed Galib Shaikh vide Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 to enlarge him on bail.

2. This application is strongly opposed on behalf of prosecution as per reply Exh.20.

3. Points for the determination and my findings thereon for the reasons stated below ;

SR. NO.	POINTS	FINDINGS
I.	Whether grounds are justified to release the applicant/accused No.1 on bail vide Section 483 of the Bharatiya Nagarik Suraksha	Yes.

	Sanhita, 2023 ?	
II.	What Order ?	The application is Allowed.

REASONS

4. Perused application, say filed. Heard learned advocate for applicant/accused No.1 Shri. Santosh More. Heard learned A.P.P Shri.Y.S.Bhopi.

AS TO POINTS NO. I AND II :

BRIEF FACTS OF PROSECUTION :

5. The informant is a jeweller by profession resides at Mulund (West) Mumbai. He runs shop by name Monica jewelers. The person namely Ratansing Rathod was a servant at his shop from last 27 years. The informant is acquainted with a person by name Sunil Ingale. This person namely Sunil Ingale asked him for work of discount in lieu of 10 gram gold each. On next day informant his friend Sunil Ingale and Ratansing Rathod have headed to Kharghar.

6. The present applicant/accused No.1 Raj came over there and asked them to come in front of one hotel. One vehicle

came over there and pushed Rathansing Rathod to sit in that vehicle and then taken him away. Those persons have hit to Ratansing Rathod severely and taken money of Rs.13 lacks from him. The witness Sunil Ingale restrained informant from lodging report under pretext of transfer of amount shortly by those persons. Then those persons have not parted the money.

7. On that count, the informant lodged the report Dated 27.06.2024 at Police Station, Kharghar. The Police Station Officer Kharghar registered Crime No.217/2024 for the offence under Section 395, 120(B), 170, 323, 504, 506, 34 of the Indian Penal Code against applicant/accused No.1 and other accused. Later on investigating officer added Section 363, 465, 468, 471 of the Act.

8. The applicant/accused No.1 is arrested on 04.07.2024 and produced before the court on 05.07.2024 and he was remanded to police custody till 09.07.2024 and it was extended till 12.07.2024 and then remanded to judicial custody as per order Dated 12.07.2024. The applicant/accused No.1 is presently in judicial custody.

NOTICE TO VICTIM :

9. In the light of directions of Hon'ble Apex court in the case of **Jagjeet Singh V/s. Ashish Mishra @ Monu in Criminal**

Appeal No.632/2022 Dated 18.04.2022, a victim is entitled to be heard at the stage of adjudication of bail application of accused. Relying upon these observations, the notice is issued to the informant. The informant failed to appear. He has not chosen to appear for hearing of bail application of accused No.1.

WHETHER GROUNDS OF BAIL ARE MADE OUT ?

10. At the outset, it is not in dispute that initially the report is lodged against one person by name Raj and rest unknown persons. The informant is a jeweler runs shop by name Monica Jewelers situated at Mulund (West) Mumbai. The friend of informant namely Sunil Ingale asked him for discounting of the gold. On that count the informant carried amount of Rs.13 lacks with his servant Ratansing Rathod at the place of incident.

11. The witness Sunil Ingale has phoned to the persons as such the present applicant/accused No.1 with name Raj came over there and asked the informant and witnesses to come at the place of one hotel. Once those persons have confirmed about the money with the witness Ratansing Rathod and he came out for washroom from his vehicle that time the unknown persons have nabbed him. Those persons have taken away to Ratansing Rathod and robbed the amount of Rs.13 lacks.

12. Pursuant to that, the investigating agency on the basis of technical evidence like as CCTV footage and CDR record arrested the accused persons. The involvement of present applicant is restricted to the extent of taking informant and witnesses in front of the hotel. The presence of this applicant is marked in CCTV of the adjoining premises.

13. The investigation of this crime is over and charge-sheet is filed. The police were not able to recover the entire amount stolen from the witness Ratansing. Further the presence of witness Sunil Ingale and restraining informant from lodging the report immediately creates cloud of suspicion about his involvement. Further the witness Ratansing has come outside the vehicle for washroom and then he immediately was nabbed. Then in that circumstances the investigating officer have chosen to implead them as witnesses. The explanation is not finding either in reply or in the charge-sheet. These observations are prima facie for deciding this bail application only and it has no bearing at the time of trial.

14. The present applicant is behind bar since more than six months. Looking to the nature of the offence coupled with his involvement and the investigation is set at rest, as such further detention of the applicant is unwarranted. The applicant is ready

to furnish surety and abide conditions imposed by the court. Today this court has enlarge the accused Vishal Tupe and Vishal Chorge on bail. On all these count, the applicant deserves for bail. I answer Point No.I in the affirmative. With this, I pass following order ;

ORDER

1.	The application vide Exh.15 for regular bail vide Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 on behalf of the applicant/accused No.1- Raj @ Mohammed Asif Mohammed Galib Shaikh is allowed.
2.	The applicant/accused No.1 be released on bail on furnishing P.R. and S.B. of Rs.50,000/- (Rs. Fifty Thousand) with one surety of like amount on following terms and conditions ;
i.	The applicant/accused No.1 shall assist to Investigating Officer whenever called under written intimation.

ii.	The applicant/accused No.1 shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the accusations against him so as to dissuade them from disclosing such facts to the Court or to any police officer.
iii.	The applicant/accused No.1 shall not tamper with prosecution evidence in any manner.
iv.	A soft copy of this bail order be forwarded to applicant/accused No.1 through Superintendent, Taloja Jail by e-mail for information in view of observation of Hon'ble Apex Court in the case of In Re Policy Strategy For Grant of Bail in SMWP (CRIMINAL) NO.4/2021, Dated 31.01.2023.
3.	Inform to concerned Police Station accordingly.
	Dictated and pronounced in Open Court.

Place : Panvel.

Date : 13.01.2025

**(K.G. Paldewar)
Additional Sessions Judge,
Panvel**

Arguments heard on	4 th Day of January, 2025
Judgment/order delivered on	13 th Day of January, 2025.
Dictated on	13 th Day of January, 2025.
Transcribed on	13 th Day of January, 2025.
Checked and signed on	14 th Day of January, 2025.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same and as per the original Judgment/Order.

Name of the Stenographer : K. N. Lokhande
Name of the Court : Additional Sessions Court,
Panvel
Date of Judgment/Order : 13.01.2025.
Judgment/Order signed on : 14.01.2025.
Presiding Officer : K.G. Paldewar
Judgment/Order uploaded on : 14.01.2025.