

CNR No.MHRT-04-000-010-2023

ORDER BELOW EXH. 01 IN
BAIL APPLICATION NO. 05 OF 2023

Santosh @ Donya Prabhakar Mahadik	Applicant
Versus	
The State of Maharashtra (Through Khed Police Station)	Opponent

1. This is an application filed by the applicant under section 439 of the Code of Criminal Procedure, 1973 for his release in connection with crime no.326 of 2022 registered in Khed police station for the offence punishable under section 380, 454, 457, 461, 436 r.w. 34 of the Indian Penal Code, 1860.

2. In brief prosecution case is that, on 20.11.2022 one Vaibhav Vilas Ambre, R/o. Lote, Tal. Khed, Dist.Ratnagiri has lodged the complaint with Khed police station with allegations that, Indo Dutch Metalo Chemicals Pvt. Ltd. and Mishal Zinc Industries India Pvt. Ltd. are situated on plot nos.C-41 & C-42 respectively in Lote MIDC and they are belongs to one Mr. Kiranlal Manilal Meheta. Due to financial crises, both companies came to be insolvent. The owner Kiranlal Manilal Meheta flee away by shutting down both units of these companies. The State Bank of India have financed both these units to the tune of Rs.125 crores and accordingly both these units have been shut down since the year 2000. Subsequently, SBI Malad Mumbai took possession of both units situated in abovementioned plot and handed it over for taking its care to one Asset Re-construction Co. India Ltd. Mumbai for care taking since the year 2017. But, the said company failed to take care of it.

3. The informant Vaibhav Vilas Ambre, then further contended that, in the year 2015 to 2020, he was member of Lote Grampanchayat. That time, in the month of November 2019 he came to know that, various things stolen from both these units. In order to confirm the same, he personally went to the site of company and at there, he saw that, theft of company units and machinery, boiler, angles, reactors, tank etc. were stolen. On 30.11.2019 at about 11.30 a.m. he again went to the site of company and at there he saw few persons were cutting the company machineries with the help of gas cutter. That time, crane by name Vishwas Enterprises lifting those cutting pieces and seen loading in the truck bearing no. MH-12-EQ-9471. According to the informant, the said truck belongs to scrap merchant Asif Meman, r/o. Chiplun. That time, Asif Meman was present at the site alongwith his motorcycle bearing no.MH-08-AD-6634. That time, the informant took photographs of what's going on at the spot on his mobile phone. He also took video shooting in his mobile phone. Thereafter, on 13.12.2019, he saw the stolen material of both these units were carrying in truck bearing no.MH-50-1487. That time, he saw Munnakumar Singh who is the owner of the company. Even, that time also he took photographs and took video shooting of the theft in his mobile phone. Thereafter, on 15.12.2019 at about 17.45 hrs. he went again at the site of the company and that time, he saw one truck bearing no.MH-08-H-0987 loaded with various things stolen from these two companies. He then, took photographs of the site. According to the informant, theft of company machinery, boiler, tank, reactors etc. was going on for many days during the period from November 2019 upto December 2019. According to him, Munna Kumar Singh and Asif Meman thereby committed theft of iron channels, tank, reactors, boilers exhaust, oven, iron blower lines etc. to the tune of Rs.30 crores. The informant then gave a reason for

delay. According to him, in the month of February 2020 he orally informed to BDO Lote about theft, but he avoided to do so and therefore, he lodged the complaint with above allegations. On the basis of his complaint, an offence came to be registered vide crime no.326 of 2022 for the offence punishable under section 380, 454, 457, 461, 436 r.w. 34 of the Indian Penal Code, 1860.

4. In support of bail application, the learned Advocate Mr.N.S.Kelkar for the applicant has argued that, the role of present applicant is not much active. He is arrayed falsely in this case. Present applicant is scrap purchaser and earning bread for his family. Present applicant has acted upon a notary document where he purchased the said scrap by paying sum of amount to main culprit Munnakumar Singh. He is local resident of village Ghanekunth, Tal. Khed, Dist. Ratnagiri. He has further argued that, delay is caused in lodging the complaint. There are no criminal antecedents against the present applicant. He is law abiding person. Advocate Mr.Kelkar has further argued that, present applicants have no role in alleged theft.

5. In reply, the learned APP Mr.Dhongade has argued that, present applicant is involved in the commission of offence of theft. It has further argued that, investigation of this crime is at initial stage. I.O. wants detailed interrogation with the present applicant as he is active leader of political party. So, if he is released on bail, then, there is dense probability of his absconding, tampering with the prosecution evidence and pressurizing the witnesses. Accordingly, the learned APP Mr.Dhongade resisted the bail application.

6. Heard both the ends and I have gone through the entire

material on record.

7. Having heard both the side, following points arise for my determination and I have recorded my findings against them for the reasons given below.

	POINTS	FINDINGS
1	Whether applicant is entitled to release on bail ?	Yes.
2	What order ?	Application is hereby Allowed.

:: REASONS ::

As to Point No.1 :-

8. At the outset, it is to be noted here that, I.O. has not specifically stated the grounds on which present applicant is not liable to release on bail. But, according to I.O., the present applicant is one of the party member and under such circumstances, if he is released on bail, then, there is dense possibility of tampering of evidence on the part of the applicant. On going through the complaint and other documents on record, it appears that, it does not come on record the key role of the present applicant. Under such circumstances, at this juncture it does not mean that, present applicant is involved in the theft. There is nothing on record except allegations to show that, present applicant is involved in the alleged theft. It further appears that, applicant is co-operating with the police. The I.O. is at liberty to call as and when to the applicant after his release on bail. Considering all these facts and circumstances, there are no just reasons for custodial interrogation of the present applicant. Therefore, I am of considered view to grant bail to the applicant. Hence, I answer point no.1 in the affirmative and in answer to point no.2, I proceed to pass the following order.

ORDER

1. The Bail Application (Exh.1) is allowed.
2. Applicant ***Santosh @ Donya Prabhakar Mahadik*** be released on bail on furnishing his Personal Bond of Rs.15,000/- (Rs. Fifteen Thousand Only) & Surety Bond in the like amount.
3. Applicant is hereby directed to remain present before the I.O. on every alternate day in between 11.00 a.m. to 2.00 p.m. till filing of chargesheet.
4. Further he is directed not to tamper the prosecution evidence.
5. Further he is directed not to contact with complainant or any of the witness in this crime.
6. Further he is directed not to repeat the offence otherwise, it will cause cancellation of bail.
7. Breach of any of the above condition, order automatically stands vacated.

(Dictated and Pronounced before the Court.)

Khed.

(D. L. Nikam)

Date :- 13.01.2023

Addl. Sessions Judge, Khed.

Case No. Cri. Bail Application No.05/ 2023 (O. Exh. 1)

I affirm that the contents of this pdf file order are same word as per original order.

Name of Stenographer : Sandeep S. Patil

Court Name : Additional Sessions Court, Khed.

Date of Decision : 13.01.2023

Order Signed by P.O. on : 13.01.2023

Order uploaded on : 13.01.2023