

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

934 BAIL APPLICATION NO. 1194 OF 2020

**NASIR BABU SHAIKH
VERSUS
STATE OF MAHARASHTRA**

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Ms. S.G.Sonawane, Advocate for Applicant.
Smt. Vaishali S.Chaudhary, A.P.P. for State.

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**CORAM : V.L.ACHLIYA, J.
DATE : 03/11/2020**

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ORAL ORDER :

1. The applicant has preferred this application u/s 439 of Cr.P.C. seeking release on regular bail for the reasons set out in detail in the application.
2. Heard learned counsel for applicant and learned A.P.P. for State. Perused charge sheet.
3. In brief, it is the contention of learned counsel for applicant that applicant is innocent and falsely implicated in the case. It is submitted that there was enmity between informant and co-accused Raju Shinde. The applicant intervened in the quarrel between them so as to pacify them from quarrel with each other. Due to enmity with the co-accused, the applicant has falsely implicated in the case. It is submitted that applicant and informant had resided together in same locality and they were knowing each

other. There was no reason for the applicant to commit robbery. The allegations made in the complaint are totally false and concocted. The accused who alleged to have stopped the car of informant and assaulted him has been granted bail by this Court vide order dated 28/08/2020 passed in ABA No. 714 of 2020. It is submitted that applicant is arrested on 13/06/2020. No recovery to be made from the applicant. The co-accused Raju Shinde has deposited Rs. 43,000/- which is alleged to be robbed in the incident. Investigation is completed. Due to pandemic on account of COVID-19, there is no likelihood of trial against the applicant to be commenced and concluded in near future. It is submitted that though the learned Additional Sessions Judge has observed in the order that applicant is having criminal antecedents and seven cases are registered against him, the applicant is not involved in any criminal activity since after 2015. All the cases registered against him are prior to 2015. It is submitted that applicant is ready to abide any condition that may be imposed in the event of his release on bail.

4. On the other hand, learned A.P.P. opposed the application with contention that there is strong prima facie case against the applicant. By referring the allegations made in the F.I.R., learned A.P.P. submits that the informant specifically named the applicant as

culprit and attributed specific role in commission of offence. It is submitted that the applicant is having history of involvement of number of cases. As many as seven criminal cases found to be recorded against him with the concerned police station. If the applicant is released on bail, there is every likelihood that applicant may posed threat to informant and indulged into commission of offences of similar in nature.

5. I have carefully considered the submissions advanced in the light of overall facts of the case, nature of accusations made against applicant, role attributed to the applicant in commission of offence and status of investigation. So also considered the broad principles to be followed while dealing with an application seeking release on bail.

6. Considering the overall facts of the case, nature of accusations made against applicant, the offence charged against the applicant being not punishable with imprisonment for life or death, the charge sheet has been filed, I am of the view the applicant deserves to be enlarged on bail. Past record of involvement of applicant in commission of offence itself not sufficient to deny bail to the applicant. The offences registered against applicant appears to be registered prior to year 2015. No offence alleged to be registered after year 2015.

7. The applicant is lying in jail since 13/06/2020. Due to pandemic on account of COVID-19, the normal functioning of the Court has been affected since the month of March, 2020. It will take long time to resume the normal functioning of the Court. It would not be justified to keep the applicant behind the bars for indefinite period. The facts and circumstances rules out the possibility of abscondance of applicant and pressurizing or tampering the prosecution evidence. The applicant can be released on bail by putting certain conditions. Hence, the following order.

ORDER

[i] The application is allowed.

[ii] The applicant Nasir Babu Shaikh arrested in Crime No. I-137/2018 registered with Rahata Police Station, District Ahmednagar for committing the offence punishable u/s 397 of Indian Penal Code be released on furnishing bail in the sum of Rs. 20,000/- [Rupees Twenty Thousand] with one or two sureties in the like amount on the following conditions.

[a] Pending disposal of case against applicant, the applicant shall appear before the Officer in-charge of concerned police station to record his appearance on last day of each month in between 6.00 p.m. to 7.00 p.m.

[b] The applicant shall not indulge into any act amounting to pressurizing or tampering the prosecution witnesses.

[c] Pending hearing and final disposal of case, the applicant shall not indulge into commission of offence of similar in nature.

[d] The applicant shall furnish the names and residential address of his three close relatives.

[iii] In the event of breach of any of the conditions, the bail granted to the applicant liable to be cancelled.

8. The application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP