

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 BAIL APPLICATION NO.1330 OF 2020

SHAIKH LATIF S/O. SHAIKH RASHID
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Jaiswal Rupesh A
APP for Respondents: Mr. S.P. Deshmukh
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CORAM : V. K. JADHAV, J.
DATED : 18th DECEMBER, 2020

PER COURT:-

1. The applicant is seeking bail in connection with crime No. 258 of 2019 registered with Pishor police station, District Aurangabad for the offences punishable under Sections 394, 397 of I.P.C. and under Section 142 of Maharashtra Police Act. His application Exh.8 in Sessions Case No. 102 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge, Aurangabad vide order dated 23.10.2020.

2. Heard both sides.

3. It appears that the informant has alleged about the robbery committed on road and one unknown person has extended beating to the informant and further snatched the golden Mangalsutra of his wife, however, no identification parade was conducted during the course of investigation. Learned A.P.P. has pointed out that the

applicant was caught red handed near the water tank and therefore no question arose for conducting identification parade of the applicant.

4. So far as the charge under Section 397 of I.P.C. is concerned, though the informant has sustained injuries, however, as per the medico legal certificate it appears that the informant has sustained simple injuries. Furthermore, the applicant has allegedly used the wooden stick lying by the side of the road. It thus appears that the applicant was not armed with the deadly weapon and caused any grievous injury to the informant. In view of the same, the penal provision under Section 397 hardly attracts.

5. So far as the charge under Section 394 of I.P.C. is concerned, after going through the statement of the applicant/accused recorded during the course of investigation, it appears that in fact there was no attempt of robbery on the part of the applicant but there was previous acquaintance between the applicant and the informant on account of some money transaction between them and in consequence thereof, since the informant was not returning the money of the applicant, the applicant has allegedly obstructed the informant and his wife when the informant was proceeding on his motor bike with his wife. Though there is criminal history of the applicant, however, considering the peculiar facts of the present case and since the informant has made allegation against the applicant without referring

their earlier acquaintance, I am inclined to release the applicant on bail with certain conditions. Hence the following order:-

O R D E R

- I. Application is hereby allowed.
- II. The applicant Shaikh Latif s/o Shaikh Rashid, in connection with crime No. 258 of 2019 registered with Pishor police station, District Aurangabad for the offences punishable under Sections 394, 397 of I.P.C. and under Section 142 of Maharashtra Police Act be released on bail on furnishing personal bond of Rs.20,000/- with one solvent surety of the like amount on following conditions:-
 - a) The applicant shall not tamper with the prosecution evidence in any manner.
- III. Application is disposed of.

(V. K. JADHAV, J.)

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