

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.167 OF 2021

Manda w/o Kamlesh Paswan
@ Manda Waghmare @ Manda Thamke

... Applicant

Versus

The State of Maharashtra

... Respondent

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Mr. N. S. Kadam, Advocate for the applicant.
Mr. S. Y. Mahajan, APP for the respondent – State.

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WITH
BAIL APPLICATION NO.221 OF 2021

Akash s/o Dilip Pawar

... Applicant

Versus

The State of Maharashtra

... Respondent

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Mr. S. S. Deshmukh, Advocate for the applicant.
Mr. S. Y. Mahajan, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 9th March, 2021

ORDER :-

. Applicants in both the applications have been arrested on 22.12.2020 and 25.12.2020 respectively in connection with Crime No. 361 of 2020 by Kinwat Police Station, District Nanded for the offence punishable under Sections 394, 170 of Indian Penal Code. Both of them have filed applications for bail under Section 439 of the Code of

Criminal Procedure.

2. Heard learned Advocate N. S. Kadam for applicant in Bail Application No.167 of 2021, Mr. Sachin S. Deshmukh for applicant in Bail Application No.221 of 2021 and learned APP Mr. S. Y. Mahajan for respondent- State in both the cases.

3. Learned Advocates for the applicants have submitted that perusal of the First Information Report lodged by one Vinod Ramchandra Ingole would show that he had lodged it by naming applicant - Aakash. He has not named applicant - Manda. He has tried to pretend that at the time of snatching the amount, the handkerchief tied to the mouth of Aakash came down and then he has identified him. This appears to be a concocted story. It is rather unbelievable that such a huge amount would have been available with informant. Informant is serving as security guard. He says that he was carrying amount of Rs.3,90,000/-. *Prima facie* there is delay of 8 hours in lodging the FIR, which has not been explained. Applicant - Manda has two daughters to look after. Further physical custody of the applicants is not required. They deserve to be released on bail.

4. Learned APP submitted that there is ample evidence against applicants. The informant has specifically stated in his FIR that he was

knowing Aakash. He had mobile number of applicant - Aakash. Aakash represented that he would sell gold found to one Fakira - the shepherd. He also offered that they would sell it together and share profit. It appears that informant fell to the pray of Aakash and gave call stating that he would be purchasing gold. Aakash asked him to bring amount. When informant was proceeding to meet him, Aakash was constantly asking his location. Informant had withdrawn some amount from ATM at Kinwat. He had total cash of Rs.3,90,000/- with him. Informant was with his brother on his motorcycle. When they had halted for answering nature's call near Sai Mandir, one motorcycle came and the person on it snatched the bag of the informant containing cash. Informant and his brother had fallen from the motorcycle. Informant could recognize Aakash as his handkerchief tied on face came off in the scuffle. Informant has given the number of the motorcycle on which Aakash had come. Thereafter, a black colour car came, on which word "Police" was written. A lady in blue jeans and white shirt got down. She was holding fiber stick of police in her hand. Another person in police uniform also got down. The lady assaulted informant and then he ran in the field. His brother went on motorcycle towards Darati. The lady in the car took Aakash with them. Thus, it can be seen that both the applicants have played vital role. The lady has been identified as applicant - Manda.

Amount of Rs.14,200/- has been found in her house. Amount of Rs.2,50,000/- has been found from the house of Aakash. Amount of Rs.1,25,800/- is yet to be seized. Investigation is still pending and some accused are yet to be arrested. Therefore, applicants do not deserve to be released on bail.

5. At the outset, it can be seen that at present investigation is not complete. FIR clearly shows the role played by Aakash. We will have to go by the allegations in the FIR at this stage and cannot conclude that the story is concocted. Informant has stated as to how he has collected the amount. There is substance in his contention about having such amount with him on that day. Substantial amount has been found from his house. It is also required to be noted that in the FIR it is stated that applicant - Manda was holding fiber stick of police and another person from car was in police uniform. Thus, it appears that they wanted to impersonate also.

6. The manner in which the offence was committed and the recovery from the applicants, their active role disentitles them from claiming bail. Hence, applications stand rejected.

[SMT. VIBHA KANKANWADI, J.]

scm