

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

BAIL APPLICATION NO.180 OF 2021

1) Raju @ Anya Mahadev Bhosle
and three ors. = **APPLICANTS**

VERSUS

The State of Maharashtra
Through Basmath (Rural)
Police Station, Basmath,
District Hingoli. = **RESPONDENT/S**

Mr.Anilkumar B.Dhongade, Advocate for Applicants;
Mrs.DS Jape, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 3rd March, 2021.

PER COURT :-

1. Present applicants have been arrested in connection with CR No.30/2020 registered with Basmath (Rural) Police Station, Basmath District Hingoli dated 23.2.2020 for the offences punishable under Sections 457 and 380 of IPC. They have filed the present application under Section 439 of Cr.P.C.

2. Heard learned Advocate for the applicants and learned APP for Respondent-State. In order to cut short, it can be stated that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR lodged by one

Dattatraya Vishwanath Narwade would show that he and his family members went to sleep around 12.30 am on 23.2.2020. However, his father could notice that cupboard in the house was opened by somebody around 1.00 to 1.30 am. When the father went to see by calling as to who is there, they found two persons running away from the back side door of the house. All other family members got up and came in the room where the cupboard was. They found that the cupboard was open and articles were scattered. They could realize that theft has been committed. When all of them searched for the articles, they found that cash of Rs.45,000/- and various gold and silver ornaments worth Rs.1,40,000/- have been stolen. When the informant made enquiry in the village thereafter he came to know that theft has been committed in the adjoining houses also. Therefore, the FIR was lodged against unknown persons.

4. It appears from the police papers those have been made available that investigation of 2-3 offences was going on simultaneously and while intercepting those accused persons, who are the history-sheeters, the police could get admission/information from them that they have committed the theft. Those accused persons, i.e. present applicants, came to be arrested in CR No.352/2020 registered with Aakhada Balapur police station and while so investigating that offence, the articles stolen from the present informant are stated to have been discovered. Now, substantial

investigation is over. The case rests on only discovery that has been carried out under Section 27 of the Indian Evidence Act. Though statements of the witnesses and the contents of the FIR disclose that theft has been committed at night time by entering into the house of the informant; yet it is to be noted that none of them have stated that they had seen any thief and as to how many persons were exactly involved. The informant has stated the presence of only two persons. Therefore, when the articles have been recovered, physical custody of the present applicants is not required. The reasons those have been stated by the Police Officer in the police papers are not sufficient to reject the present bail application. No doubt, it appears that present applicants have also been involved in similar crime, but as on today, it can be said that they have not been declared as habitual offenders. Therefore, by imposing stringent conditions, the application deserves to be allowed. Hence, following order, -

ORDER

- i. The Bail Application stands allowed.
- ii. The applicants – 1) Raju @ Anya Mahadev Bhosle; 2) Gidppa @ Gidya Gangappa Bhosle; 3) Rajabhau @ Sunna @ Biranda Gangappa Bhosle; and 4) Akash s/o Balaji Deojad, be released on bail connection with CR No.30/2020 dated 23.2.2020 registered with Basmath (Rural) Police Station, Basmath District Hingoli

for the offences punishable under Sections 457 and 380 of IPC, on each one of their executing PR bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.

iii. The applicants shall not indulge in any criminal activity nor shall they tamper with the prosecution evidence in any manner.

iv. The applicants shall attend Basmath (Rural) Police Station, Basmath, District Hingoli, thrice in a week between 10.00 AM to 2.00 PM. till filing of charge sheet.

v) The applicants shall comply with the requirements set out in Para No.12(1) to (6) of Chapter-I of Criminal Manual, whichever are applicable.

vi. Bail before the Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV