

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

944 BAIL APPLICATION NO.558 OF 2021

GANESH SHANKAR WAKLE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondents/State : Mr. S.P. Deshmukh
...

CORAM : M.G. SEWLIKAR, J.
DATE : 01.07.2021

PC.:-

By this application, the applicant is seeking bail under Section 439 of the Cr.P.C.

2. The informant-Narayan Hazare lodged the FIR on 20.01.2021 stating therein that on that day at 01.45 am he was proceeding towards railway station, Parbhani from his room. At 02.15 am near the cremation ground an auto came from his behind in which five persons were sitting. The driver of the auto asked him whether he wanted to go to the station to which he answered in the negative. The auto proceeded ahead and again took u-turn and came back to the informant. Two persons alighted from the auto and held his hands, three persons alighted from the auto one of them was holding a pipe of black colour. They frisked him. One of them fished out a

cutter. The applicant was robbed off a mobile of Redmi company worth Rs.10,300/- and cash of Rs.1,300/- at the point of cutter. At that very moment he saw an oncoming police van. Thereupon, the informant caught hold of the hand of one of the assailants tightly. The other four ran away in the auto on noticing the police van. He noted the RTO passing number of the said auto which was MH-22-AP-1504. He told the police about the incident. On interrogation by police the said person told his name as Sunil Shinde and on further interrogation name of the applicant along with three other accomplices were revealed. When the accused-Sunil Shinde was being taken to the Marathwada plot at that time one person stopped the police van and told them that four persons were chasing him in an auto for robbing him. On inquiry he told his name as Shaikh Asif Shaikh Rahim. Thereafter, police brought two persons and auto no.MH-22-AP-1504 to the police station. The informant and said Shaikh Asik Shaikh Rahim identified those two persons. The name of one them was Ganesh Shankar Wakle i.e. the applicant. On these allegations FIR came to be registered against the applicant.

3. Heard Shri Salunke learned counsel for the applicant and Shri S.P. Deshmukh learned APP for the State.

4. Shri Salunke submitted that the applicant has no criminal antecedents. He submitted that the evidence against the applicant is a cooked

up evidence. After eight days of incident the statement of witnesses were recorded showing that they were also robbed by the applicant. He submitted that there is no evidence against the applicant and therefore he may be released on bail. Shri Salunke further submitted that mother of the applicant is Covid-19 positive and there is no one to look after her, therefore to take care of his mother the applicant be released on bail.

5. Shri Deshmukh submitted that mobile phone of the informant has been recovered from the applicant. He submitted that on that night itself the applicant and other three accused tried to rob Shaikh Asif Shaikh Rahim. They had robbed two – three more persons but they did not lodge the complaint against the applicant and others. He submitted that there is evidence against the applicant and therefore he may not be released on bail.

6. Charge-sheet has been filed. The applicant in the night of the incident was in the auto bearing no.MH-22-AP-1504. The informant was robbed off his mobile phone worth Rs.10,300/- and cash of Rs.1,300/-. There were five people in the auto. Mobile has been recovered from the applicant. Its IMEI number is 867510046860193, 86751004680201 which is mentioned in the supplementary statement of the informant.

7. Learned APP states that the informant has produced the bill of the

said mobile and IMEI number tallies with the IMEI number of the cell phone seized from the applicant.

8. The statement of Shaikh Asif Shaikh Rahim has also been recorded. He has stated that these four persons were chasing him along with the applicant. Having regard to the nature of the evidence collected against the applicant, I am not inclined to release the applicant on bail. Hence the application stands rejected.

9. These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]