

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

BAIL APPLICATION NO. 311 OF 2020

Samir Bashir Shaikh

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. K.A. Kale, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 14th JULY, 2022**

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. I-106 of 2018 registered with Loni Police Station, Dist. Ahmednagar for the offences punishable under Sections 395 and 397 of the Indian Penal Code ('I.P.C.') and under Section 4 read with Section 25 of the Indian Arms Act.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by the victim himself on 11th May, 2018. It has been averred in the F.I.R. that on 10th May, 2018 at 08.00 p.m.,

the informant was on his way with his truck bearing no. MH 18 AP 5115 towards Pune. While he was proceeding along Ahmednagar – Manmad road, near village Nirmal Pimpri the cleaner side tyre of the truck got punctured. He, therefore, parked the truck to roadside and started process of changing the wheel. At about 05.30 a.m. four persons entered the cabin of the truck. They manhandled him and gave threats at knife point. He was asked to release whatever he has with him. He was robbed of cash amounting to Rs.10,000/-, a cell phone, his ATM card, PAN card and license as well. He, therefore, lodged the F.I.R.

4. There is another F.I.R. lodged by Police Constable Kailas Bhangardive on the same day. It has been averred therein that an information was received that six persons on two motorbikes, after having committed a robbery, were proceeding towards Manmad for committing another similar crime. The police personnel, therefore, started in search for them. One of the motorcyclists slipped. Three persons riding thereon, having seen the police vehicle, escaped in a roadside sugarcane field. The police personnel could successfully overpower them. On their arrest, they disclosed their names as Sagar Thorat, Amol Pare and Mahesh Manchare. During their interrogation the names of other three were revealed. One of them is the applicant herein.

5. It is informed that based on the F.I.R. lodged by police constable another crime for the offences punishable under Sections 399 and 402 of the I.P.C. was registered. In the said crime the applicant is said to have been acquitted. About the matter in hand, the name of the applicant was disclosed by the co-accused. He was not put to the test identification parade. The only incriminating material against him is recovery of PAN card and ATM card of the victim from his possession. The victim was robbed of to Rs.10,000/-. The offence dates back to May 2018. The applicant was arrested on 19th May, 2018. So far he is behind the bars for four years minus two years, being on COVID bail. As such, he is actually behind the bars for two years. It is informed that the applicant has no criminal antecedent.

6. Considering the nature of offence and he had been behind the bars for two years and investigation has already been over and charge-sheet is filed, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. I-106 of 2018 registered with Loni Police Station, Dist. Ahmednagar for the offences punishable under Sections 395 and 397 of the Indian Penal Code and under Section 4 read with

Section 25 of the Indian Arms Act, on executing PR. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD