

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

BAIL APPLICATION NO.575 OF 2022

Ganesh s/o Bandu Munde ..Applicant

VERSUS

The State of Maharashtra ..Respondent

...
Advocate for Applicant : Mr.Rajendra G. Hange
APP for Respondent : Mr.V.S.Badakh
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BAIL APPLICATION NO.498 OF 2022

Bapurao S/o Parmeshwar Saruk ..Applicant

VERSUS

The State of Maharashtra ..Respondent

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Advocate for Applicant : Mr.S.R.Zambare
APP for Respondent : Mr.V.S.Badakh
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CORAM : SMT. VIBHA KANKANWADI, J.

DATE: 4th May, 2022

ORDER :-

1. Both the applicants came to be arrested on 9th December, 2021 in connection with Crime No.0280 of 2021, registered with Neknoor Police Station, District Beed, for the offence punishable under Section 399 of the Indian Penal Code (IPC). These applications are filed under Section 439 of the Code of Criminal Procedure.

2. Heard Mr.R.G.Hange, learned Advocate for the applicant in Bail Application No.575 of 2022, Mr.S.R.Zambare, learned Advocate for the applicant in Bail Application No.498 of 2022 and Mr.V.S.Badakh, learned APP for the respondent. In order to cut shorts, it can be stated that the learned Advocates for the applicants and learned APP for the respondent made submissions in support of their respective contentions.

3. The First Information Report (FIR) has been lodged by Mustafa Ismail Shaikh (Assistant Police Inspector) attached to the Neknoor Police Station. He has stated that they were patrolling between Manjarsumba to Kaij road at around 22:30 hours on 8th December, 2021. At that time, they found one Safari vehicle bearing registration No.MH-20 AY-9119 halted on the side of the road. They got suspicious about the vehicle and therefore, when they went near the vehicle, they found that there were 4 to 5 persons occupying the vehicle. When they asked to put down the glass of the vehicle, considering that they are the Police persons, the accused persons started the vehicle and fled away on Kaij road. They were chased by the Police, however, the vehicle went for a long distance. Ultimately, the Police were proceeding on Kaij – Ambajogai road, at that time, they found the said vehicle parked in the premises of Renuka Petrol Pump.

Police forcibly asked the occupants to get down. There were five persons in all who got down. Applicants were amongst them. The vehicle was checked and the Police could find one axe, iron rod, wooden stick, one plier, screw driver and chilli powder in a plastic bag in the vehicle and therefore, taking into consideration those articles, the patrolling staff got confirmed that the accused persons had come with a preparation to commit dacoity and therefore, they were taken in custody and after reaching the Police Station, the FIR came to be lodged.

4. Now, investigation is complete and charge-sheet is filed. The statements of witnesses, specially they are the Police persons, are supporting the contents of the FIR.

5. Though, learned Advocates appearing for the applicants submit that no independent witness appears to have been examined, specially from the Petrol Pump, that cannot be considered as the sole ground for releasing the applicants on bail.

6. Learned Advocate representing accused - Bapurao Parmeshwar Saruk states that the vehicle belongs to accused Bapurao and he had recently purchased it. He had taken it to

Beed for inspection by the technical person in automobile. Some of the accused are his relatives and therefore, they were occupying the vehicle.

7. It is for applicant - Bapurao to prove as to for what purpose he was at the said place. It is to be noted that apart from those articles which were seized, three cellphones were seized from accused Ganesh, Mahadeo and Balasaheb, whereas 10 SIM cards were seized from one Santosh Jadhavar. Now, as regards accused Ganesh is concerned, though, he is saying that his age at the time of filing application is 19 years, still one offence is registered in his name, which is under Section 363 of the IPC. Learned Advocate representing him states that the said offence is registered due to some domestic differences.

8. The charge-sheet is filed and the articles, which according to the prosecution could have been used to commit dacoity, have been seized. Now nothing more is required to be seized from the present applicants. The criminal antecedents of applicant Ganesh cannot be a hurdle for granting bail. It would take long time for the case to stand trial and therefore, with stringent condition, application deserves to be allowed as in this case there is no question of tampering of evidence of the prosecution. Hence,

the following order is passed :-

ORDER

- i) Bail Applications are allowed.
- ii) The Applicant - Ganesh Bandu Munde in Bail Application No.575 of 2022 and the applicant - Bapurao Parmeshwar Saruk in Bail Application No.498 of 2022, be released on bail in connection with Crime No.0280 of 2021, registered with Neknoor Police Station, Dist.Beed, for the offence punishable under Section 399 of the IPC, on P.R. Bond of Rs.30,000/- (Rs. Thirty Thousand only) each with two solvent sureties of Rs.15,000/- (Rs. Fifteen Thousand only) each.
- iii) 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.
- iv) The applicants shall not indulge in any criminal activity and they shall not tamper with the prosecution evidence in any manner.
- v) Bail before the trial Court.

**(SMT. VIBHA KANKANWADI)
JUDGE**