

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

BAIL APPLICATION NO.1582 OF 2022

Santosh Ganeshrao Ghorpade ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. S.J. Salunke, Advocate for Applicant.
Mr. K.S. Patil, APP for the Respondent-State.

**WITH
BAIL APPLICATION NO.1428 OF 2022**

1. Motiram Sitaram Sabale

2. Ramesh Sitaram Sabale ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr.C.C. Deshpande h/f Mr. B.N. Magar, Advocate for Applicants.
Mr. K.S. Patil, APP for the Respondent-State.

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CORAM : S.G. MEHARE, J.

DATED : 13th OCTOBER, 2022

PER COURT:-

1. Heard learned counsels for the applicants and learned APP for the State.

2. The applicants have been arraigned as an accused on the allegations that they were present with the accused when the offence was committed. However, they have not been named in the FIR.

They have been arrested in the crime on the basis of the CDR report. Except this, there is nothing against the applicants.

3. Learned counsels for the applicants have vehemently argued that as per the FIR, there were two unknown persons; however, the police arrested six accused as unknown persons. As far as the present applicants are concerned, they have been arraigned as an accused on the basis of CDR report only. Learned counsels for the applicants have argued that the description of two different unknown person was given in the FIR. After his arrest, the police did not held the test identification parade. It is a deliberate act of the police. It was the best remedy available to the police to know who were the two unknown persons as described in the FIR. The applicants have a case that they have been falsely implicated in the crime. They have no bad past. They are living a respectful life. They are languished in jail since last about three months. Their further detention is not required.

4. Learned APP did not know whether the test identification parade of the accused were held since the date of their arrest. He took the instructions from the investigation officer. He informed him that he did not hold the test identification parade. The reasons best known to the investigation officer, why he did not hold the test identification parade.

5. After perusal of the documents placed on record and the investigation papers, it appears that except CDR report, the prosecution has no evidence against the applicants for involving them in the crime. In view of the matter, it would be inappropriate to keep the applicants behind the bars. Hence, the following order :

ORDER

- (i) Both Bail Applications are allowed.
- (ii) The applicants, Santosh Ganeshrao Ghorpade in Bail Application No.1582 of 2022 and (1) Motiram Sitaram Sabale (2) Ramesh Sitaram Sabale in Bail Application No.1428 of 2022, be released on bail on executing P.B. and S.B. of Rs.25,000/- (Rupees Twenty Five Thousand) each with one surety in the like amount in connection with Crime No.234/2022, registered at Gangakhed Police Station, District Parbhani for the offences punishable under Sections 302, 364, 120-B, 323, 506, 143, 147, 148, 149 of the Indian Penal Code and Section 135 of Maharashtra Police Act, on the condition to attend the police station as and when called on written notice and shall not tamper with the prosecution witnesses.

(S.G. MEHARE, J.)