

(1)

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

**BAIL APPLICATION NO.1828 OF 2022
WITH APPLN/4024/2022 IN BA/1828/2022**

**MANOJ BHIMA VALVI
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Jain Gajendra Devichand
APP for Respondent/State : Mr. K.S. Patil
Advocate for Assist to P.P. : Mr. D.M. Mane h/f Mr. D.M. Pingale

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CORAM : S.G. MEHARE, J.

DATED : 07th DECEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State as well as the learned counsel assisting the learned APP.
2. Learned counsel for the applicant would submit that the applicant has been arrested only on suspicion. Except forceful recovery of mobile handset under Section 27 of the Indian Evidence Act, the prosecution has no evidence to prove the nexus of the accused with the alleged incident. There was inordinate delay in recording the statement of eye witnesses. Those are planted witnesses. They have not explained the delay. The applicant has been made a scapegoat. The applicant is behind the bar since 08.05.2022. The charge sheet has been filed. There are no antecedents to the discredit of the applicant.

3. Learned APP has opposed the application contending that the offence is serious. The delay in recording the statements of so-called eye witnesses may be explained during the trial. Hence, this is not a fit case for bail.

4. Perused the charge sheet. It is not in dispute that the so-called eye witnesses came forward after about one month of the alleged incident. Except the recovery of mobile handset, the prosecution has no incriminating evidence against the applicant. The prosecution case rests upon the circumstantial evidence that requires proof of the chain of circumstances. Considering the allegations levelled against the applicant and belated statements of the eye witnesses, the Court is of the view that it would be improper to detain the applicant behind the bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Manoj Bhima Valvi, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.139 of 2022, registered at Dhadgaon Police Station, District Nandurbar for the offence punishable under Sections 302 of the Indian Penal Code, on the condition that the applicant shall not tamper with the prosecution evidence.

(3)

(iii) Criminal Application No.4024 of 2022 is allowed.

(S.G. MEHARE, J.)

Mujaheed//