

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

932 BAIL APPLICATION NO.1731 OF 2021

ACHCHU @ NAJIMODDIN NURODDIN KAZI
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. A.B. Girase h/f. Bagul D.S.
APP for Respondents/State : Mr. V.S. Badakh

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CORAM : M.G. SEWLIKAR, J.
DATE : 4th January, 2022

PC.:-

This is an application under Section 439 of the Cr.PC. for releasing the applicant on bail in connection with Crime No.333 of 2021 registered with West Deopur Police Station, District Dhule under Section 395, 504 of the I.P.C. and under Section 3/25 of the Arms Act.

2. Prosecution case in brief is that the informant had purchased 14 cows on 11th November, 2021 with the help of Shaikh Yusuf. On 14th November, 2021 at about 6.00 pm the said Shaikh Yusuf informed the informant that cows came to be loaded in truck no.PB-02/BA-9788 for proceeding towards Malegaon. When this truck reached Nagaon, Dhule truck was stopped by 8 to 9 unknown persons and they posed themselves as police and cow protectors. The truck was driven to some distance. Those unknown

persons snatched Rs.15,000/- and mobile of driver by showing pistol and sharp weapon. These 14 cows were shifted in another truck and the truck was driven away. Thereafter, the informant and Shaikh Yusuf came to Dhule from Malegaon and inquired with local people. On inquiry name of applicant was revealed. On these allegations FIR came to be lodged on the basis of which offence as aforesaid came to be registered.

3. Heard Shri Girase learned counsel for the applicant and Shri Badakh learned APP for the State.

4. On perusal of the FIR, it is seen that incident took place on 14th November, 2021, whereas the FIR came to be lodged on 21st November, 2021. There is delay of seven days in lodging the FIR which has gone unexplained. Secondly, it is alleged that cows have been stolen by the applicant, however, cows have not been recovered. It is worth noting that the informant was not at the spot of the incident. FIR does not say that the driver and cleaner had intimated the informant about the incident. Then the question arises as to how the informant came to know about the incident. FIR further narrates that information about the name of the offenders was taken from locals. Locals told the name of applicant. This clearly shows that only on the basis of suspicion the applicant has been roped in. Cows have not been recovered. Therefore, there is no *prima face* evidence to connect the accused with the

offence. Learned APP Shri Badakh submits that there is one case registered against the applicant and the *modus operandi* is the same. However, past history is relevant only when some *prima facie* case is made out against the accused. In the case at hand, there is no *prima facie* case made out against the applicant. Therefore, his past history hardly has any relevance. In this view of the matter, there is nothing to indicate that applicant was the author of the crime. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.20,000/- with one solvent surety in the like amount, in connection with Crime No.333 of 2021 registered with West Deopur Police Station, District Dhule under Section 395, 504 of the I.P.C. and under Section 3/25 of the Arms Act on condition that he shall attend the concerned police station on every Sunday between 12 noon and 4.00 pm till the filing of the charge-sheet..
- III) 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.]