

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.170 OF 2023

PIYUSH KAUSHAL SHUKLA
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms. Nishat Reza h/f. Mr. Sachin S. Randive
APP for Respondent : Mr. S. P. Sonpawale
...

CORAM : S. G. MEHARE, J.

DATE : 24-02-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The learned counsel for the applicant vehemently argued that the applicant has been arrested only on the suspicious. He is a college student. After arrest, nothing has been recovered from him. He is languishing in jail for a long time. He has cooperated with the Investigating Officer. He is ready to cooperate with the investigation if he is released on bail.
3. Per contra, the learned A.P.P. would argue that the first informant identified the applicant in test identification parade. However, nothing has been recovered from him.

4. In reply, the learned counsel for the applicant argued that in the absence of description of accused in first information report and seeing the face of the applicant during the alleged incident, identification of the test identification parade cannot be believed. Before his identification parade, possibly the police must have shown him to the complainant. Such test identification parade is legally not acceptable.

5. Perused the application and papers placed before this Court.

6. The first informant lodged a report against four persons who had wore the masks. Therefore, the identification of accused in test identification parade comes under doubt. Nothing has been recovered from him. The applicant is a young college going boy. The material investigation against him has been completed. On certain conditions, he deserves bail. Hence, the order :-

- i) The application is allowed.
- ii) Applicant Piyush s/o. Kaushal Shukla be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.No.798 of 2022, registered with M.I.D.C. Police Station, Ahmednagar, for the offences punishable under Sections 341 and 394 read with Section 34 of the Indian Penal Code, on the conditions that,
 - (a) He shall not tamper with the prosecution witnesses.

- (b) He shall attend the police station as and when called by the Investigating Officer on written notice till filing of the chargesheet.
- (c) He shall not leave his college where he is studying now without intimation to the police station under whose jurisdiction his college falls till conclusion of the trial.
- (d) He shall submit his and his family members' residential proof and mobile cell phone numbers.
- (e) He shall not be in the company of other co-accused, till the conclusion of the trial.

**(S. G. MEHARE)
JUDGE**

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