

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

ANTICIPATORY BAIL APPLICATION NO. 391 OF 2023

Bali Jeevan Gaikwad

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....
Mr. V.D. Gunale, Advocate for applicant
Ms. R.P. Gour, A.P.P. for respondents
....

**CORAM : R.G. AVACHAT, J.
DATE : 10th APRIL, 2023**

PER COURT :

1. This is an application under Section 438 of Code of Criminal Procedure. The applicant claims to have an apprehension of being arrested in connection with Crime No. 141 of 2023 registered with Vivekanand Police Station, Dist. Latur for the offences punishable under Sections 399 and 402 of the Indian Penal Code ('I.P.C.').

2. Heard. Perused First Information Report ('F.I.R.') and related police papers.

3. The F.I.R. has been lodged by a police official. The applicant is alleged to have prepared to commit dacoity. Other four co-accused have

been arrested. Weapons like sickle and knife have been recovered from the co-accused. Involvement of the present applicant is said to have come into light only on a statement made by the co-accused. Learned counsel for the applicant is, therefore, justified to submit that statement of the co-accused is inadmissible in evidence.

4. According to learned A.P.P., the applicant has criminal antecedents. About eleven crimes have been registered against him. This fact was intentionally suppressed in his application for anticipatory bail before the Additional Sessions Judge. Learned Judge, therefore, rejected his application. She would further submit that as per the statement of the co-accused, it is the present applicant, who was the head of those three and he is in know of the place whereat they had proposed to commit dacoity. Learned A.P.P. would further submit that sickle has to be recovered from the applicant. The applicant's custodial interrogation is, therefore, necessary.

5. Considered the submissions advanced. Most of the crimes registered against the applicants are under the Maharashtra Prohibition Act. The other one is under Prevention of Gambling Act. True, there are two offences registered against him pertaining to offence against human body, punishable under Section 324 of the I.P.C. The applicant is said to have acquitted of two such crimes.

6. Considering the nature of present crime and the fact that name of the present applicant has been disclosed by one of the co-accused and besides making preparation for committing dacoity no further overt act has been attributed to the present applicant, the Court is inclined to confirm the order granting him protection.

7. In the result, order dated 27th March, 2023 granting the applicant interim anticipatory bail is hereby made absolute. The applicant shall appear before the investigating officer, as and when required for the investigating purpose. The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD