

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

933 BAIL APPLICATION NO.1249 OF 2023

SAINATH NAGNATHRAO MAMILWAD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. A.M. Gaikwad
APP for Respondent : Ms. P.V. Diggikar

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: August 22, 2023
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PER COURT :-

1. The applicant is seeking regular bail in connection with crime no.39 of 2023 registered with police station Degloor District Nanded for the offence punishable under sections 302, 396, 397, 120-B of the Indian Penal Code.

2. On 24.1.2023 on the information of the injured Shripat Ramji Patil offence was registered against unknown accused persons for commission of robbery and murder of his wife Chandrakalabai. Allegations in the FIR state that culprits had entered the house of Chandrakalabai and caused her murder so also took away jewellery from the house. During course of the investigation, accused persons were arrested based on CCTV footage and identification by the complainant. It appears that the jewellery has been recovered from the applicant based upon the statement leading to discovery under section 27 of Evidence Act.

3. Mr. Gaikwad, learned advocate appearing for the applicant would submit that investigation of crime is completed. Applicant is behind bar for more than 8 months. He would submit that the

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offence was registered against unknown persons. Presence of three accused was shown in the FIR however, charge-sheet filed against six persons. He would further submit that CCTV footage relied upon the prosecution was procured from the concerned hotel and then the complainant was confronted with the same in which he identified the accused persons. He submits that such identification is doubtful. He would further submit that recovery under section 27 is not reliable. As such he urged for grant of bail.

4. Learned APP vehemently opposed the application. She would submit that offence is serious. There are criminal antecedents against the applicant. He is identified by the complainant in the CCTV footage. Further, there is recovery under section 27 of the Evidence Act. As such, there is strong evidence against the applicant. Release of the applicant may hamper the trial and there is possibility of commission of similar offences by him in case of his release.

5. Having considered the submissions advanced, apparently, first information was reported against the unknown persons, however, during investigation, CCTV footage was procured that shows presence of the applicant at the Permit room. The complainant has identified the applicant as the accused, actively involved in the commission of offence. On arrest of the accused, there is recovery of incriminating articles/jewellery from the applicant which clearly shows his involvement in the offence. As pointed out by the learned APP, previously the applicant was found to have involved in serious offence causing grievous injury registered with Mukramabad police station. The co-accused,

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appears to be habitual offender having multiple offences registered against him. Possibility of commission of similar offence cannot be ruled out. The evidence is likely to be tampered. Release of the applicant can not be considered in this background. Hence, the application is rejected.

(S. G. CHAPALGAONKAR, J.)

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