

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

41 BAIL APPLICATION NO.1348 OF 2023

BEGSAHEB MAHADU BHOSLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Ghanekar Nilesh S.
APP for Respondent-State : Ms. V. N. Patil-Jadhav.
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CORAM : S. G. MEHARE, J.
DATE : 17.08.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant seeks bail in Crime No.284 of 2022, registered with Gangapur Police Station, District Aurangabad, for the offences punishable under Sections 302, 397 read with Section 34 of the IPC and Section 4/27 of the Arms Act.
3. The prosecution is opposing the bail application mainly on the ground that since the day of the incident, he was absconding and there were antecedents to his discredit. However, after the arrest of the applicant, there was no evidence against the applicant. An attempt was made to recover the weapon at his instance, but, nothing was

discovered from the place the applicant had shown to the police. The law is settled that merely having antecedents to the discredit of the applicant is not suffice to refuse the bail, there shall be incriminating material against the accused in the crime, in which, he has been arraigned as an accused. The prosecution has to *prima facie* establish the role attributed to the accused and produce incriminating material against him. Hence, the Court is of the opinion that in the absence of incriminating evidence against the applicant, barely arraigning him as an accused is not suffice to decline the bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **BEGSAHEB MAHADU BHOSLE** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, in Crime No.284 of 2022, registered with Gangapur Police Station, District Aurangabad, for the offences punishable under Sections 302, 397 read with Section 34 of the IPC and Section 4/27 of the Arms Act, on the following conditions :

- (a) He shall report the Investigating Officer on every first and last Wednesday of each month between 5.00 p.m. to 7.00 p.m. for six (6) months from the date of his release.
- (b) He shall attend the trial on each effective date.

(S. G. MEHARE, J.)

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vmk/-