

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

BAIL APPLICATION NO. 1513 OF 2023

Tejas s/o Naresh Bidkar
Age: 23 years, Occu: Labour
R/o Gopalpura, Tq. Jalna,
Dist. Jalna

... Applicant

Versus

The State of Maharashtra
Through Hasnabad Police
Station, Jalna

... Respondent

...

Mr. N. S. Ghanekar, Advocate for the Applicant
Mrs. P. V. Diggikar, APP for the Respondent/State

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 14.09.2023

PER COURT :

1. Heard the learned Advocate for the applicant and learned APP for the respondent/State.
2. By this application, the applicant seeks regular bail in connection with Crime No.116/2023 registered with Hasnabad Police Station for the offences punishable under Sections 395, 341 and 323 of the Indian Penal Code [for short 'IPC'].
3. The investigation was set in motion on the basis of information given by one Aleem Bismillah Pinjari who alleged to have work as

a driver. He states that on 26/04/2023 while he was carrying the load of iron bars in his truck and reached in the vicinity of village Rajur, a four wheeler came across his vehicle. Some persons alighted from that vehicle and approached towards truck. Thereafter, they assaulted the informant using iron rod and apprehended him by using the pistol and knife. They tied his hands with rope and removed him from the vehicle. They took him in a car. They committed robbery of mobile phone and cash amount. Further, they flee away with the truck. As such, it is alleged that the goods worth Rs.8,79,000/- has been robbed by unknown persons. The investigation is progressed. The applicant came to be arrested on 03/05/2023. His plea for grant of bail has been rejected by the Sessions Court vide order dated 09/08/2023. Hence, the present bail application.

4. Mr. Ghanekar, learned Advocate appearing for the applicant would submit that the FIR has been lodged against unknown culprits. There is no narration describing identify of culprits in the FIR. After arrest of the applicant, under seizure panchnama, some articles are seized. However, those are not relevant or significant to link the applicant with the commission of offence. He would further submit that although the applicant is alleged to have been identified by the informant during the identification parade, such identification would not enure benefit to the prosecution because of inherent procedural defects. He would therefore submit that the material in charge-sheet is bereft to bring home guilt against the applicant.

5. Learned APP vehemently opposes the application. She would submit that the applicant has been identified as culprit by the informant during identification parade dated 23/05/2023. She would further point out that there is recovery of knife from the applicant. The contents of FIR show that knife was used as weapon of offence. Therefore, there is sufficient material by which the applicant can be hold guilty for commission of offences charged. Hence, she urge to dismiss the application.
6. Having considered the submissions advanced, apparently, the FIR was lodged against unknown persons. After registration of FIR, the applicant is arrested on 03/05/2023. The identification parade is carried on 23/05/2023. The perusal of the panchnama regarding identification parade depicts that all four accused persons were identified in one and the same parade, which appears to be against the guidelines prescribed under criminal manual as well as clarified by this Court in various pronouncements. As pointed out by Mr. Ghanekar, learned Advocate for the applicant that the first informant has not given description of the culprits in his statement. Therefore, the basis of identification itself is faulty. So far as recovery of applicant under seizure panchnama is concerned, the cash amount, a mobile phone and the knife is shown to have been recovered from the applicant. However, it is difficult to link these articles with the commission of offence. Therefore, such recovery may not be of any significance. The investigation in the matter is complete and charge-sheet is also filed. Although the learned APP points out that there is one previous offence registered against the applicant, it is not of similar in nature. In that view of

the matter, the case is made out for grant of bail. However, to secure the interest of prosecution, certain conditions are required to be imposed. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, namely, Tejas s/o Naresh Bidkar be released on bail in connection with Crime No.116/2023 registered with Hasnabad Police Station for the offences punishable under Sections 395, 341 and 323 of IPC on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand) on the following conditions:
 - a) The applicant shall not tamper with the prosecution evidence in any manner.
 - b) The applicant shall not leave the State of Maharashtra without intimation to the police.
 - c) The applicant shall submit the details of his address and contact number with the police and update the same on monthly basis.
 - d) The applicant shall not establish with any witnesses named in the charge-sheet.
 - d) The applicant shall not indulge in the similar offence.
- (iii) Bail Application is disposed of accordingly.

**[S. G. CHAPALGAONKAR]
JUDGE**