

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

BAIL APPLICATION NO.1559 OF 2023

BANTY @ JAYESH SHANTARAM KOLI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. J. V. Patil
APP for Respondent : Mr. S. B. Narwade

...
CORAM : S. G. CHAPALGAONKAR, J.

...
Reserved on : September 14, 2023
Pronounced on : September 15, 2023.

...

ORDER :-

1. The applicant seeks regular bail in connection with Crime No.265 of 2023 registered with Chopda City police station, Tq. Chopda, District Jalgaon for the offence punishable under section 394 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by one Noor Mohammad Pinjari. The informant had been to Chopda and they were proceeding towards Thalner Darvaja. While they reached near a Graveyard (Kabrastan), 2-3 unknown boys arrived on motorcycle and interrogated him. Thereafter, they attacked him, gave fist and kick blows. One of them took out knife and caused injury on palm of the informant, so also took away cash of Rs.800/- from his pocket. Another accused person hit on his head using iron rod. Others were beating him by kick and fist. Thereafter, he approached the police station, where he was shown

aaa/-

photographs of some persons. He identified them. One of them was Satyam Patil and another was Banti @ Jayesh Koli (present applicant). Accordingly, offence was registered against in all four accused persons. The applicant has been arrested in pursuance of the aforesaid crime on 2.7.2023. Since, then he is behind bar.

3. Investigation progressed. The applicant moved for grant of bail before the Sessions Court. However, his prayer came to be rejected vide order dated 17.8.2023.

4. Mr. Patil, learned advocate appearing for the applicant would submit that investigation in the matter is practically over. The applicant is behind bar for more than two months. The applicant has been falsely implicated. Co-accused, against whom there are allegations of using knife and causing injury to the informant is already enlarged on bail vide order dated 31.7.2023. Prayer of the applicant for grant of bail is rejected merely on the ground that the applicant is facing one more criminal trial. He would submit that in the previous case also he is released on bail with specific observation that there are no incriminating material against the applicant and allegation is only regarding supply of arm to the main accused. Therefore, he urged to release the applicant on bail.

5. Per contra, learned A.P.P. vehemently opposes the prayer. He would submit that the applicant has caused injury on head of the informant using iron rod. Medical evidence supports the contentions in the FIR. There is corresponding

aaa/-

injury on head of the informant. Release of co-accused is insignificant since the applicant is facing a criminal trial for the offence punishable under section 302 of the IPC. Still then he has committed present offence. Considering his conduct, he is not entitled for discretionary relief of grant of bail.

6. Having considered the submissions advanced, apparently the FIR had been filed against unknown persons, but in the subsequent part based on the photographs shown at the police station, it is alleged that the applicant was involved in commission of offence. The statement of witnesses which are made part of the investigation would show that by way of supplementary statement, allegation regarding assault by the applicant on forehead of the informant using iron rod has been brought on record. Pertinently, co-accused against whom there is allegation of using knife and causing injury to the informant is already released on bail by order dated 31.7.2023.

7. Perusal of the medical certificate would show simple injury on informant's head, which can be attributed against the assault by applicant. Although, learned APP submits that the applicant is already facing a trial for serious offence of murder, perusal of bail order in that crime shows that there is no allegation against the applicant regarding participation in murder; but he is added as an accused with the allegation of supply of some arms to assailant. Considering totality of the circumstances, since investigation is complete and co-accused is also released on bail, further detention of the

applicant would not be necessary. Hence, case is made out for grant of bail. Hence, the order.

ORDER

- i. Criminal Bail Application is hereby allowed.
- ii. The applicant- BANTY @ JAYESH SHANTARAM KOLI be released on bail in connection with Crime No.265 of 2023 registered with Chopda City police station, Tq. Chopda, District Jalgaon for the offence punishable under section 394 r/w 34 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand) on the following conditions :-
 - a] The applicant shall visit the concerned police station once in a week i.e. on every Monday between 10 am to 2 pm till filing of charge-sheet.
 - b] The applicant shall cooperate with the investigation.
 - c] The applicant shall not with tamper the prosecution evidence.
 - d] The applicant shall not indulge into similar offence.

III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

...