

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

938 BAIL APPLICATION NO.1613 OF 2023

**ABBAS ASLAM ZAIDI
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. S.R. Zambare
APP for Respondent : Mr. K.S. Patil

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**CORAM : S. G. CHAPALGAONKAR, J.
Dated : September 29, 2023**

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.56 of 2022 registered with Shivajinagar police station, Beed, District Beed for the offences punishable under section 395, 392 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Ashok Giri, who alleges that while he was proceeding on scooter from Balshali Colony, motor cycle riders came from back side. They intercepted him under pretext of asking address of one Vijaykumar Patil. Suddenly, pillion rider of the motorbike snatched the golden chain with pendent from his person and flee away. Crime no.56 of 2022 came to be registered on the basis of such information for the offence punishable under sections 392, 34 of the IPC. The applicant has been arrested in pursuance of the said crime on 22.4.2022. Since then he is behind bar.

3. Learned advocate appearing for the applicant would submit that the investigation is completed. Charge-sheet is filed. Evidence in the charge-sheet is not sufficient to establish the case alleged against the applicant. He is behind bar for more than one and half year. His further detention would not be necessary. Hence, he urges to release the applicant on bail.

4. Per contra, learned A.P.P. opposes the prayer. He would point out that the applicant is a habitual offender and as many as 30 offences are registered against him. Learned APP would point out that there is recovery of incriminating article from the applicant so also in the identification parade he is identified by the witnesses. As such there is sufficient material to establish the guilt against him.

5. Having considered the submissions advanced, prima facie, charge-sheet contains evidence in the nature of recovery of incriminating article so also identification parade by which complicity of applicant can be established for offences alleged. Learned counsel appearing for the applicant points out that the FIR specifically speaks about use of KTM bike, however, what has been recovered is the Unicorn Bike, which is different than described in the FIR. Perusal of the document would show that there are some discrepancies in the evidence of the prosecution. Apparently, applicant has been arrested on 22.4.2022. Although, the charge-sheet is filed invoking charge under section 395 of IPC. Going by the allegations in the FIR and material in the charge-sheet, prima

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facie, it is a case of theft punishable u/s 379 of the IPC; for which punishment of three years is provided. The applicant is behind bar from 22.4.2022 i.e. more than 18 months from the date of arrest. If the provision contained in section 436-A of Cr.P.C. is considered, maximum period for which under trial prisoner can be detained in facts of this case is already over. In that view of the matter, the case is made out for grant of bail. However, since applicant is facing large number of criminal cases and he may be required in some other case, certain conditions can be imposed to secure the interest of the prosecution. Hence, the order.

ORDER

- i. Criminal Bail Application is hereby allowed.
- ii. The applicant - ABBAS ASLAM ZAIDI be released on bail in connection with Crime No.56 of 2022 registered with Shivajinagar police station, Beed, District Beed for the offences punishable under section 395, 392 r/w 34 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand), **if not required in any other crime**, on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall furnish his residential address and contact numbers with the police station.

- c] The applicant shall attend the concerned police station on 5th day of every month till conclusion of the trial.
 - d] The applicant shall not indulge himself in similar offences.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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