

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

934 BAIL APPLICATION NO.1669 OF 2023

**UDASHYA LALDASHYA BHOSALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicants : Mr. Anil M. Gaikwad
APP for Respondents: Mr. S.P. Deshmukh.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 11TH OCTOBER, 2023

ORDER :-

1. The applicants seek regular bail in connection with Crime 83/2023 registered with Police Station, Belwandi, District Ahmednagar for offense punishable under Section 394, 396, 120-B of the Indian Penal Code.

2. The investigation was set in motion on the basis of information given by one Sharmila Kalyan Gaikwad residing at Arangaon Dumla Tq. Shrigonda, Dist. Ahmednagar. She states that, on 14/03/2023 while she was in her house, unknown persons broke opened the lock of the door. Her husband woke up, so also, the informant and her daughter woke up and saw that, 3 unknown persons had entered in the house and they were beating husband of informant. Description of accused persons is given. It is further alleged that, they snatched gold ornaments from the person of the informant and also assaulted her daughter. One of the accused took away ornaments kept in the cupboard along with cash amount worth Rs.15,000/-. The husband of

informant succumbed to injuries due to deadly attack by assailants.

2. On the basis of aforesaid information, offence was registered against unknown persons. Investigation progressed. Applicants have been arrested on 21/03/2023 & 22/03/2023 respectively. After completion of investigation Charge- Sheet came to be filed against in all six accused persons for the offence punishable under Sections 396 and 120-B of the Indian Penal Code.

4. Mr. Gaikwad, learned Advocate appearing for the applicants would submit that, the FIR has been registered against unknown persons. Although, the FIR states about involvement of four unknown accused, Charge Sheet is filed against in all six accused persons. He would submit that, there is no clinching evidence against the applicants by which their complicity in the commission of the offence can be established. The Test Identification Parade shows that four persons are identified out of five accused persons though only three accused had entered in house as per FIR that discredits Test Identification Parade. He would submit that, applicants are behind the bars for almost 6 months. The trial will take its own time. Further detention of the applicants may not be necessary. Hence, he urges for release of applicants on bail.

5. Mr. Deshmukh, the learned APP vehemently opposes the prayer for grant of bail. He would submit that, offenses are serious in nature. He would point out that, after arrest of the applicant, identification parade was arranged. The informant and her daughter identified both the applicants. The report of identification parade is part of the charge sheet. He would further submit that, there is recovery of

incriminating articles from the applicant No.1. The Discovery Panchanama is part of the record. Therefore he submit that, there is sufficient evidence against the applicants. Release of the applicants may hamper smooth prosecution. Possibility of tampering of evidence cannot be ruled out.

6. Having considered submissions advanced, it is apparent that, initially offence under Section 394 & 302 of Indian Penal Code was registered. The husband of the informant was brutally killed in the course of dacoity. Valuable property like gold ornaments and cash amount was robbed. The applicants have been arrested after getting clue from witness Ganesh Dabhade, who is worker in a hotel at Talegaon Dabhade. After arrest of applicants, Test Identification Parade is conducted. Both the accused persons are identified by informant as well as her daughter as culprits. Validity and acceptability of Test Identification Parade is matter of trial. At this stage, no conclusion can be drawn on basis of submissions advanced by learned advocate for applicants. Further, there is discovery of incriminating articles under Section 27 of Indian Evidence Act at the instance of the accused/applicants. Evidence on record is prima facie sufficient to bring home guilt of applicants in commission of offence. Considering the nature of offence and evidence on record, no case is made out for grant of bail. Hence, the application for grant of bail is rejected.

[S.G. CHAPALGAONKAR]
JUDGE