

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

938 BAIL APPLICATION NO.1715 OF 2023

GANESH NAGNATH VACHNE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. A.S. More
APP for Respondent : Mr. K.S. Patil

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CORAM : S. G. CHAPALGAONKAR, J.
Dated : October 26, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.341 of 2023 registered with Naldurg police station, Tq. Tuljapur, District Osmanabad for the offences punishable under sections 341, 394, 395 of the Indian Penal Code.

2. Investigation was set in motion on the basis of complaint given by one Sahadev Sambhaji Madje, who alleges that he was proceeding in his tempo towards Pune from Humnabad. When he reached near Naldurg his tempo was intercepted by a Jeep. Thereafter, two persons arrived on motorcycle. They snatched key & mobile from the informant and took over charge of the vehicle. Thereafter, they assaulted him by kicks and fist and snatched amount of Rs.35,000/- from his pocket and two persons flee away with tempo. Informant was taken by other two motorcyclist and was dropped at Raiaba Hotel. Thereafter, he called his friend Satish Gaikwad at Naldurg. They approached to the police station and lodged

report. Accordingly, Crime No. 341 of 2023 came to be registered against unknown accused for offence punishable under Sections 394, 349 of Indian Penal Code.

3. Mr. More learned Advocate appearing for applicant would submit that the applicant has been arrested on suspicion. He points out that other accused persons from same crime have been already enlarged on bail. He relied upon order dated 10.10.2023 passed in Bail Application No.1492 of 2023 in respect of accused Syad Amir Azahar. This court observed that during Test Identification parade, accused is not identified, hence granted him bail. He would further submit that other accused person namely Indrajit Sing is granted ad-interim protection in Anticipatory Bail Application (ABA) No.1469 of 2023 vide order dated 06.09.2023. He would submit that the applicant is behind bar for about three months since the date of his arrest i.e. on 30.7.2023. As such, he urges to release applicant on bail.

4. Learned APP strongly opposes the prayer for grant of bail. Apparently, perusal of the police papers shows that the applicant was subjected to identification parade, however, he is not identified. Only evidence relied on by prosecution against applicant is his communication with co-accused persons observed in CDR reports. There is no positive evidence showing involvement of applicant in offence. The detention of the applicant based on such weak evidence need not be continued. The co-accused are already enlarged on bail. No incriminating material recovered from the applicant.

aaa/-

5. Mr. Patil, learned APP confirms that there are no criminal antecedents to discredit the applicant.

6. In that view of the matter, case is made out for grant of bail subject to certain conditions. Hence, the order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant - GANESH NAGNATH VACHNE be released on bail in connection with Crime No.341 of 2023 registered with Naldurg police station, Tq. Tuljapur, District Osmanabad for the offences punishable under sections 341, 394, 395 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 not tamper the prosecution evidence.
 - b] The applicant shall attend the concerned police station once in a week i.e. on every Monday between 10 am to 2 pm till filing of the charge-sheet.
 - c] The applicant shall not indulge in criminal activities.
 - d] The applicant shall not contact with the witnesses acquainted with the facts of this case.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE