

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

BAIL APPLICATION NO. 1743 OF 2023

1. Hemratan @ Hemaram Kamlesh Jaat
Age: 25 years, Occu: Labour,
R/o: Sauo Ki Dhani, Bhojasar,
Dist. Badner

... Applicant

Versus

1. State of Maharashtra
Through the Police Officer
Shahada Police Station
Tq. Shahada, Dist. Nandurbar

... Respondent

...

Mr. Wakale Vijay Shivaji, Advocate for the Applicant
Mr. S. B. Narwade, APP for Respondent/State

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 16.10.2023

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.269/2023 dated 08/05/2023 registered with Shahada Police Station, District Nandurbar for the offences punishable under Sections 224, 353, 120-B and 333 of the Indian Penal Code [for short 'IPC'].
3. The investigation was set in motion on the basis of

complaint given by Rejendra Devidas Parolekar, who is a Police Officer at Shahada Police Station. In nutshell, it is alleged that, a complaint was lodged in Crime No.807/2022 for the offences punishable under Section 379 of IPC with Police Station Shahada. The accused - Omprakash @ Omaram Jaat was arrested in connection with the said crime and for the purpose of extending his police custody, he was brought to the Court. After the remand, when he was handcuffed by the police persons, suddenly he gave jerk and fled away. The police officer who intercepted him was severely beaten by fist and kick blows. Thereafter, with help of a Scorpio Jeep arranged by his companions, he ran away. On the basis of aforesaid information, Crime No.269/2023 came to be registered. During the course of investigation, the accused persons are arrested. The accused - Premram arrested by the police, disclosed the names of his companions. The applicant is named as one of them. Based on such material, the applicant has been arrested on 25/06/2023. Since then, he is behind the bars. His prayer for grant of bail has been rejected by the Sessions Court vide order dated 04/09/2023. Hence, the present application.

4. Mr. Wakale, learned Advocate appearing for the applicant would submit that the applicant has been arrested on the

basis of suspicion. There is no admissible evidence in the entire charge-sheet to show his complicity in commission of offence. The entire case of prosecution is based on the statement of co-accused, particularly, so called confession given by accused - Premram, who states about the complicity of the applicant in commission of offence. Except this statement, there is nothing against the applicant. Therefore, he submits that further detention of the applicant would not be necessary. Hence, he urges to grant the bail.

5. Learned APP strongly opposes the prayer for grant of bail. He would submit that the offence is serious. The accused persons conspired together and helped Omprakash @ Omaram Jaat, who was an accused in Crime No.807/2022 to escape from the custody of police. He would further submit that the applicant is a hardened criminal and two offences are already registered against him in the State of Rajasthan. Hence, he urges to reject the application.
6. Having considered the submissions advanced, apparently, the investigation in the matter is over and charge-sheet is filed. The applicant is behind the bars in connection with this offence since 25/06/2023. The material in charge-sheet shows that except so called confessional statement of co-accused - Premram, there is nothing to show complicity of

the applicant in commission of offence. Although CCTV footage in respect of the vehicle used in commission of offence and culprits halted at the tyre shop is available, identification parade is not carried or transcript is not made part of charge-sheet. As such, there is no admissible evidence against the applicant. Even CDR and SDR in respect of the applicant are not confirmed. In that view of the matter, further detention of the applicant cannot be permitted and the case is made for grant of bail. Hence, following order:

ORDER

- (I)** Bail Application is allowed.
- (ii)** The applicant, namely, Hemratan @ Hemaram Kamlesh Jaat, be released on bail in connection with Crime No.269/2023 dated 08/05/2023 registered with Shahada Police Station, District Nandurbar for the offences punishable under Sections 224, 353, 120-B and 333 of IPC on furnishing P.B. of Rs.50,000/- (Rs. Fifty Thousand) with local surety in the like amount on the following conditions:
 - (a)** The applicant shall not tamper with the prosecution evidence / witnesses in any manner.
 - (b)** He shall attend each and every effective date of hearing before the Sessions Court.
 - (b)** He shall update his address and mobile number with the Police Station as and when required.

- (c) He shall furnish the details of his address and mobile number with the local Police Station within the jurisdiction he resides.

(iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer