



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

BAIL APPLICATION NO.1848 OF 2023

**SHAHRUKH @ SHARYA AABRASHA @ AMAR PAWAR
VERSUS
THE STATE OF MAHARASHTRA**

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Mr. N. N. Jagadale, Advocate for the Applicant.
Mrs. P. J. Bharad, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 12th DECEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.210/2022 registered with Pachod Police Station, Tq. Paithan, Dist. Aurangabad for the offences punishable under Sections 395, 397, 120-B r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of information given by one Gajanan Natha Jawale, who alleges that on 22.06.2022 at about 02.00 am when he was sleeping at his R. O. Plant, suddenly he was attacked by unknown persons. They were four in numbers. One of them was holding knife and other was holding iron rod. They threatened him to kill and snatched silver bracelet, locket, cash amount of Rs.10,000/- and mobile phone. During this process, one of the accused hit on the back of informant using iron rod. It appears that, the applicant came to be arrested in pursuance of aforesaid crime on 19.07.2022. Since then, he is behind the bar. The prayer of the applicant for grant of bail has been rejected by the Court of Sessions vide order dated 04.07.2023.

3. Mr. Jagadale, learned Advocate appearing for the applicant submits that the applicant is behind the bar for more than 16 months. The contents of medical record shows that there was simple injury. The recovery of the incriminating articles is already effected. The trial is prolonged because co-accused are not attending the Court proceedings. The applicant cannot be blamed for that purpose. He would, therefore, submit that the applicant be released on bail.

4. The learned APP however strongly opposes the prayer for grant of bail. She would point out that the offence is serious. The applicant has as many as five criminal antecedents of similar nature. In case of release of the applicant, he may not be available for the trial. The possibility of absconding cannot be ruled out.

5. Having considered submissions advanced, it is apparent that as per FIR no specific role is attributed against any of the accused persons. The informant had suffered simple injury. During the course of investigation, the incriminating articles are recovered from the applicant, which contain bracelet, chain and sickle. It appears that, the trial is at the nascent stage. Even, charge is not framed. The applicant is behind the bar for more than 16 months. The indefinite incarceration of the under trial accused is deprecated and considered to be inconsistent with the rights guaranteed under Article 21 of the Constitution of India. Although there are criminal antecedents, the indefinite incarceration cannot be permitted. The trial is likely to take its own course. The co-accused are already enlarged on bail. Even, on the ground of parity, the applicant is entitled for release on bail. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Shahrukh @ Sharya S/o Aabrasha @ Amar Pawar, be released on bail in Crime No.210/2022 registered with Pachod Police Station, Tq. Paithan, Dist. Aurangabad for the offences punishable under Sections 395, 397, 120-B r/w 34 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
- a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall visit the concerned police station once in a month i.e. on 3rd Friday of every month.
 - c. The applicant shall furnish his contact numbers and residential address with the concerned Police Station and shall update the same time to time.
 - d. The applicant shall not indulge in similar activity.
 - e. The applicant shall attend each and every effective date before the Trial Court.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE