

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

BAIL APPLICATION NO.1849 OF 2023

RAJESH @RAJA @HINDIWALA @DILIP @THAKSEEN
BHOSLE @MUKESH DILIP PAWAR@RAJESH UPDYA@HINDI
PAWAR@RAJU
VERSUS
THE STATE OF MAHARASHTRA

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Mr. K. A. Ingle, Advocate for the Applicant.

Mr. S. B. Narwade, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 02nd NOVEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.94 of 2019 registered with Pachod Police Station, District Ahmednagar for the offences punishable under sections 399 and 402 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Bhagatsingh Ganpat Dulat, who is deputed as Police Sub Inspector, Local Crime Branch, Aurangabad Rural. It is alleged that on 24.03.2019 a secrete information was received that 4 to 5 persons are hiding on Paithan-Pachod Road with intention to commit robbery/dacoity. Immediately, trap was arranged. The panchas and other officers proceeded towards the spot. At about 19.15 hours, 4 to 5 persons were seen running after looking to the police party. One of the accused, who was running was nabbed and an axe has been recovered from him. On further enquiry, he named the other accused persons, who had fled away from the spot. In pursuance of such information, Crime

No.94/2019 came to be registered with Pachod Police Station for the offences punishable under Section 399 and 402 of the Indian Penal Code against in all five accused persons including applicant. The applicant is behind the bar in pursuance of the aforesaid offence from the date of his arrest.

3. The learned Advocate appearing for the applicant submits that, initially the applicant was granted default bail. However, before he could arrange for security, charge-sheet came to be filed. Thereafter, Application below Exhibit-10 was moved in Sessions Case No.173/2020, however, said application came to be rejected vide order dated 23.08.2023. The learned Advocate would submit that the applicant is behind the bar for more than four years. The trial is not yet commenced. The indefinite incarceration of the applicant cannot be permitted.

4. The learned APP however, oppose the prayer for grant of bail. He would point out that apart from the present case, one more prosecution is pending against the applicant, wherein provisions of MCOCA Act are invoked. He, therefore, submits that considering the criminal antecedent, the applicant is not entitled for grant of bail.

5. Having considered submissions advanced, *prima facie* applicant has been arrested in present crime on the basis of suspicion. The recovery of an axe is shown from him, which is regular instrument used by the agriculturist. The allegation against the applicant is that he alongwith other accused persons had made preparation to commit dacoity. It appears that, the applicant was granted default bail alongwith other two accused persons. However, the applicant could not furnish the security till filing of the charge-sheet, as such, he is continued in detention till this date. Perusal of the charge-sheet in this case would show

that the provisions of MCOC Act are not invoked against the applicant. In some other crime such provisions are invoked, however, that itself cannot be ground to continue indefinite incarceration of the applicant. The indefinite incarceration of the under trial accused is deprecated in view of the right of speedy trial guaranteed under Article 21 of the Constitution of India. The applicant is behind the bar from March-2019. The period of more than four and half year has been lapsed. Even, charge is not framed in the trial, which may take its own course. In that view of the matter, further detention of the applicant cannot be permitted. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Rajesh @ Raja @ Hindiwala Dilip @ Thakseen Bhosle @ Mukesh Dilip Pawar @ Rajesh Updya @ Hindi Pawar @ Raju Kale be released on bail in Crime No.94 of 2019 registered with Pachod Police Station, District Ahmednagar for the offences punishable under sections 399 and 402 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 not indulge in similar offence.
 - c. The applicant shall furnish his permanent address and contact number with concerned police station and update the same as and when necessary.

d. The applicant shall attend each and every effective date before the Sessions Court.

(iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/November-2023