

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

16 BAIL APPLICATION NO.1860 OF 2023

1. Chiku Kumar Sah s/o Prem Saha,
2. Vikas Kumar s/o Nandlal Sah,
3. Raja Kumar s/o Khagendra Prasad @ Khangan Sah,
4. Govind Sah s/o Sushil Sah.

All R/o Panchgancha Abhia, Bhagalpur,
Dist. Bhagalpur, Bihar

Applicants

VERSUS

The State of Maharashtra.

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Advocate for Applicants : Mr. Shaikh Faisal Naseemuddin
APP for Respondent : Mr. S.P. Deshmukh

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**CORAM : S. G. CHAPALGAONKAR, J.
Dated: October 31, 2023**

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PER COURT :-

1. The applicants are seeking regular bail in connection with Crime No.648 of 2023 registered with Cidco police station, District Aurangabad for the offence punishable under section 394, 395, 34 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the complaint lodged by Sushma Joy Kolikal, who resides in CIDCO area, at Aurangabad. She alleges that on 27.09.2023 two unknown persons knocked at the door. When informant opened the door, they asked the informant that they are doing survey work for company namely 'Ujala'. Informant allowed them to enter in the home. Thereafter, they asked the

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informant to have some utensil or brass, gold or silver material which can be cleaned by them. Initially, informant provided them silver chain, on which they poured a liquid and shown that ornament is cleaned as new one. Thereafter, they were asking informant to provide gold chain for the purpose of cleaning. When the informant refused to do so, one of the accused snatched gold chain. Thereafter, accused persons flee away from house. Informant has narrated description of accused persons in her report. Accordingly, Crime No.648 of 2023 came to be registered with Police Station, CIDCO, Aurangabad for offence punishable under Section 394, 34 of Indian Penal Code. Applicants were arrested in pursuance of aforesaid offense on 28.09.2023. They were remanded to police custody till 01.10.2023. It is alleged that during police custody they have made some confessional statement and also named two other companions who indulge themselves in similar offence. The applicants moved a plea for grant of bail before learned Sessions Judge, Aurangabad, however, the same is rejected vide order dated 09.10.2023. Hence, this application.

3. Mr. N. R. Shaikh, learned advocate appearing for the applicants would urge that FIR has been lodged against two unknown persons, however, all four applicants are arrested on next day only on account of suspicion. He would submit that there is nothing on record to link applicants with offence in Crime No.648 of 2023. There is no recovery of any

incriminating material nor applicants have been identified as offenders in the present crime.

4. Learned A.P.P. strongly opposes the prayer for grant of bail. He points out that there is recovery under Section 165 of the Criminal Procedure Code. Nature of articles those are recovered from the applicants is similar to that of used in commission of offence. He would submit that investigation prima facie reveals that the applicants are working as a gang alongwith absconding accused and giving effect to similar offence.

5. Having considered the submissions advanced, and on perusal of the material collected during investigation, it can be gathered that only two persons alleged to have played role in commission of offence as against that four accused persons are behind bar. It is not the case of prosecution that applicants have actually participated in commission of offence which is subject matter of Crime No.648 of 2023. Arrest and further detention of applicants is based on suspected complicity in commission of offence alongwith absconding accused. Applicants were arrested immediately on next day of registration of FIR. They were remanded to police custody, however, nothing incriminating could be discovered at their instance. Only because actual offenders are not arrested, detention of applicants cannot be permitted when they are unconcerned with present crime.

Investigation papers shows that, there is CCTV footage in respect of actual offenders. However, none of the

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applicants are identified to be the offender in Crime No. 648 of 2023. Even no identification parade is conducted. In that view of the matter, further detention of applicants would not be necessary. Hence, case is made out for grant of bail. Hence, the order.

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant nos.1-Chiku Kumar Sah s/o Prem Saha, 2-Vikas Kumar s/o Nandlal Sah, 3-Raja Kumar s/o Khagendra Prasad @ Khangan Sah and 4-Govind Sah s/o Sushil Sah be released on bail in connection with Crime No.648 of 2023 registered with Cidco police station, Aurangabad, District Aurangabad for the offences punishable under sections 394, 395, 34 of the Indian Penal Code on their furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand) **EACH**, on the following conditions :-
 - a] The applicants shall furnish the Local Sureties.
 - b] The applicants shall not tamper the prosecution evidence.
 - c] The applicants 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.
 - d] The applicants shall not indulge into similar offence.

- e] The applicant shall provide their permanent address alongwith Aadhar Card or any other authentic document regarding their identity.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE.

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