



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

935 BAIL APPLICATION NO. 2099 OF 2023

AJAY MIRILAL KALE

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

.....

Advocate for Applicant : Mr. Patil Dhananjay Shrikant and Mr.
V.A. Solanke

APP for Respondents/State : Mr.S.A.Gaikwad

.....

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 13.12.2023.

PER COURT :

1. The applicant seeks regular bail in connection with Crime No. 78 of 2019 registered with Shanishingnapur police station, District Ahmednagar for the offences punishable under sections 395, 341 of the Indian Penal Code and Section 4/25 of the Arms Act.

2. Investigation was set in motion on the basis of the information given by Vijay Himmat Mohod, who alleged that on

17.05.2019 while he was proceeding in his Car towards Mote Shegaon, Taluka and District Akola, along with his wife Roshni, father Himmat, mother Asha and niece Vainshka and reached in the vicinity of Kangoni Shivar on Ahmednagar to Aurangabad road, another white Desire Car overtook him and intercepted the informant. In all 4 to 5 persons alighted from that car. They were holding weapons like iron rod and knives. They opened the door of the informant's car and attacked him. They caused injuries on his hands, and stomach and snatched wallet, golden chain, ear rings etc. Total value of goods robbed from the informant is worth of Rs. 88,000/-. It appears that on the basis of said information the investigation progressed. Initially, accused Nos. 1 to 4 were arrested on 03.06.2019. After completion of investigation charge-sheet came to be filed. The applicant was shown as absconding. Recently the applicant is arrested on 31.07.2023.

3. The learned Advocate appearing for the applicant submits that the applicant has been falsely implicated in the aforesaid crime. The charge-sheet do not contain any incriminating material by which the complicity of the applicant

can be brought on record. Neither there is any recovery of incriminating material, nor he has been subjected to identification parade. Thus he urges that the applicant be released on bail.

4. The learned APP for the respondent-State strongly opposed the prayer. He would point out that there are criminal antecedents against the applicant. He is habitual offender. His name has been surfaced during the course of investigation. A co-accused while recording his statement under Section 27 of the Evidence Act stated about the involvement of the applicant in the commission of the offence. The applicant was absconding more than 4 years. His release may hamper the progress of trial.

5. Having considered the submissions advanced and apparently the F.I.R. is lodged against unknown culprits. The accused persons have been arrested during the course of the investigation. The applicant alleged to have named by one of the co-accused person while recording his disclosure statement under Section 27 of the Evidence Act.

6. Except this particular assertion, there is nothing on record by which the complicity of the applicant can be brought on record. The charge-sheet do not show specific allegations attributing the role against the applicant. Admittedly, after arrest of the applicant he was not subjected to identification parade. Even there is no recovery of the incriminating articles. The co-accused persons are already released on bail.

7. Although it is contended that there are criminal antecedents to the discredit of the applicant, in absence of evidence to bring the complicity of the applicant in the present crime his further detention need not be continued. Hence a case is made out for grant of bail. Hence following order :

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant – Ajay Mirilal Kale be released on bail in connection with Crime No. 78 of 2019 registered with Shanishingnapur police station, District Aurangabad for the offences punishable under sections 395, 341 of the Indian Penal Code and Section 4/25 of the Arms Act 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 each and every effective dates of hearing before the trial Court.
 - c) The applicant shall furnish his present residential address along with contact numbers with the concerned police station and visit once in a month on every Friday between 10.00 a.m. to 2.00 p.m., till conclusion of the trial.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

mahajansb/