



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.2140 OF 2023**

1. Jibrail @ Jibbo Ismail Ansari,
Age 20 years, Occ.: Labour,
2. Mohammad Ahmed @ Kallu Aslam Ansari
Age: 22 years, Occ.: Labour,
Both R/o Malegaon, Tq. Malegaon,
Dist. Nashik. ..Applicants

Versus

The State of Maharashtra,
Through Police Station Officer,
Gandhi Chowk Police Station, Latur,
Tq. & Dist. Latur. ..Respondent

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Mr. A. R. Syed, Advocate for the Applicants.
Mrs. S. A. Gaikwad, APP for Respondents-State.

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

PER COURT:-

1. The applicants seek regular bail in connection with Crime No.434/2023 registered with Gandhi Chowk Police Station, Dist. Latur for the offences punishable under Sections 457, 497, 380, 411 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of information given by on Sanjaykumar Dilipkumar Gilda, who alleges that he runs a mobile shop namely Balaji Telecom. On 27.08.2023 after end of the working hours, the shop was closed at about 09.00 pm. On 28.08.2023 at about 07.00 am he received mobile call from his friend that the shutter of his shop is partially opened. Immediately, the informant rushed to the shop and found that unknown culprits had twisted shutter and entered into the shop. The goods like mobile phones, tablets, smart watches etc. alongwith cash amount was carried away by the culprits.

Accordingly, offence under Sections 357 and 380 of the Indian Penal Code came to be registered. During the course of investigation, the applicants have been arrested on 2nd and 9th September, 2023. Since then, they are behind the bar. The investigation progressed and charge-sheet came to be filed. The prayer of the applicants for grant of bail has been rejected by the Court of Sessions vide order dated 13.10.2023.

3. The learned Advocate appearing for the applicants would submit that the applicants are young persons. They have been falsely implicated in the aforesaid crime. He would submit that although the recovery is shown from the applicants, there is nothing to show their involvement in the actual offence. There are no criminal antecedents to their discredit. The investigation in the matter is complete. Hence, he urges to release the applicants on bail.

4. The learned APP strongly opposes the prayer for grant of bail. He would submit that during the course of the investigation, applicant no.1 found in possession of goods worth Rs.5,74,777/- and applicant no.2 found in possession of goods worth Rs.12,03,229/-. There is recovery of incriminating articles, which are identified to be the goods which are subject matter of theft. He would, therefore, urge that in view of this strong evidence available against the applicants, their complicity in the offence is Writ large. In case of their release, possibility of absconding cannot be ruled out.

5. Having considered submissions advanced, apparently the allegations in the FIR are against the unknown culprits. During the course of investigation, the applicants have been apprehended and there is recovery of goods which are identified to be the subject matter of theft. It is true that, the recovery of the

goods from the applicants is strong evidence to bring home their guilt, however, from the contents of the charge-sheet, there is no other material is shown to depict that the applicants have participated in actual commission of offence. Be that as it may, it would be the subject matter of trial. The learned APP confirms that there are no criminal antecedents as against the applicants. The investigation in the matter is complete and charge-sheet is filed. Hence, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, Jibrail @ Jibbo Ismail Ansari and Mohammad Ahmed @ Kallu Aslam Ansari be released on bail in Crime No.434/2023 registered with Gandhi Chowk Police Station, Dist. Latur for the offences punishable under Sections 457, 497, 380, 411 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 applicants shall not tamper with the prosecution evidence in any manner.
 - b. The applicants shall attend each and every effective date before the Trial Court.
 - c. The applicants shall furnish their permanent residential address alongwith contact numbers with the Investigating Officer and shall update the same time to time.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE