



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.2198 OF 2023**

MANOJ @ GAUTAM KASHINATH KIWANDE
VS
THE STATE OF MAHARASHTRA

...

Mr. U. L. Momale, Advocate for the Applicant.
Mrs. P. J. Bharade, APP for Respondents-State.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 14th DECEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.624/2023 registered with Udgir Rural Police Station, Tq. Udgir, Dist. Latur for the offences punishable under Sections 329, 323, 427, 504, 506 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of information given by Bajirao Shakrao Patode, who alleges that he runs a Hotel Rajwada at Degloor Road at Udgir. On 26.10.2023 he closed the business of his hotel and was having dinner alongwith his partner. At that time two persons entered in the hotel, who were holding beer bottle and they asked for providing the dinner. When the informant shown his inability, one of the accused kicked the table and another accused broken the window glasses. Thereafter, accused persons assaulted him by beer bottles and caused head injury. They also assaulted the informant by fists and kicks blows, damaged the computer and took away the cash amount of Rs.30,000/- from the counter. It appears that, the applicant has been arrested in pursuance of the aforesaid crime on 27.10.2023. He was remanded to PCR and since 01.11.2023 he is in MCR.

3. The learned Advocate appearing for the applicant submits that the FIR is lodged against unknown culprits. The role of the accused persons is not segregated. The omnibus allegations are made. The investigation in the matter is practically over. The offences except Section 329 of the Indian Penal Code are punishable for imprisonment upto 10 years. Section 329 of the Indian Penal Code may not attract in the present case, since there are no allegations of extortion or demand to perform illegal act.

4. The learned APP, however opposes the prayer for grant of bail on the ground that the first informant had suffered grievous injury. The medical evidence is consistent with the allegations in the FIR.

5. Having considered submissions advanced, it is apparent that FIR attributes allegations against unknown culprits, who had banged into the hotel of the first informant. The supplementary statement of the first informant is recorded, wherein he names the present applicant and simultaneously withdrew the allegations of assault against co-accused. If the version of the first informant alongwith his supplementary statement dated 09.11.2023 is considered, the inconsistency has been crept in. Further from the investigation papers it cannot be gathered that on what basis the applicant has been identified to be the culprit, when Identification Parade is not carried. Although first informant had suffered serious injury, in view of the aforesaid observations, further detention of the applicant would not be necessary. At this stage, learned APP points out that there are criminal antecedents and offence under Section 394 of the Indian Penal Code is previously registered against the applicant. The investigation in the matter is practically over.

Further looking to the nature of material available in the present case, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Manoj @ Gautam S/o Kashinath Kiwande, be released on bail in Crime No.624/2023 registered with Udgir Rural Police Station, Tq. Udgir, Dist. Latur for the offences punishable under Sections 329, 323, 427, 504, 506 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 not indulge in similar activity.
 - c. The applicant shall visit concerned Police Station once in a week i.e. on every Friday between 10.00 am to 02.00 pm till filing of the charge-sheet.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE