

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPLICATION (BA) NO. 1492 OF 2022

Balaji s/o Arun Thorat vs. State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A.R.Rishi & Mr.S.M.Borade Advocates for applicant.
Mr. N.R.Rode, APP for respondent State.

CORAM : ANIL L. PANSARE J.

DATE : 20/01/2023

This application is filed under Section 439 of the Code of Criminal Procedure, 1973 (Cr.P.C.). The applicant has been arrested on 27/11/2022 in Crime No.1017/2022 registered with Police Station, Ballarshah District Chandrapur for the offence punishable under Section 379 of the Indian Penal Code (IPC).

2. The applicant is accused of stealing five buffaloes of the informant. As such the First Information Report(FIR) is against the unknown person. Another glaring fact is that the date of commission of crime is 31/08/2022 and that FIR has been lodged on 11/10/2022 without there being any justification for the delay. What is stated in the FIR is

that informant is involved in the business of selling milk. He owns 50-60 buffaloes. As per daily routine, he had left buffaloes in jungle for grazing, of which five did not return back. On 11/10/2022, he came to know that the Ballarshah Police has arrested few persons who are involved in similar such crime. Accordingly, he lodged FIR against unknown persons.

3. Though learned APP has opposed the application, the fact remains that there is no direct evidence. No one has seen applicant stealing buffaloes. It appears that the applicant has been arrested in another crime and during interrogation, he has allegedly disclosed his involvement in the present crime.

4. Learned APP submits that Rs.1,25,000/- has been recovered at the instance of the applicant under Section 27 of the Indian Evidence Act. However, there is absolutely nothing to indicate that this amount is in any way connected with the crime.

5. Prima facie, there appears no evidence, nonetheless it will be a matter of trial, however, the applicant cannot be kept behind bar, on the basis of such evidence. On inquires, learned APP submits that

the charge-sheet is likely to be filed on Monday i.e. 23/01/2023. Hence the following order :-

ORDER

- (i) The application is allowed.
- (ii) Applicant – **Balaji S/o Arun Thorat**, be released on bail, in Crime No.1017/2022, registered with Police Station, Ballarshah, District Chandrapur for an offence punishable under Section 379 of the Indian Penal Code (IPC) on he furnishing PR. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the residence till the final disposal of the case.
- (iv) The applicant shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(vi) The applicant shall not leave the territory of Chandrapur without prior permission of the Court, till the trial is over.

(vii) The applicant shall maintain law and order.

(viii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The application is disposed of in the above terms.

JUDGE