



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 BAIL APPLICATION NO. 221 OF 2024

Ravi Anna Shinde
VERSUS
The State of Maharashtra

...
Advocate for Applicant : Mr. Bhagwan S. Kudale
APP for Respondents: Mrs. Pratibha J. Bharad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 19th MARCH, 2024.

PER COURT :-

1. This is an application for granting bail under section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") in connection with crime No. 197 of 2023 registered with Bardapur police station, Tq. Ambajogai, District Beed, for the offences punishable under Sections 394, 395, 397 and 34 of the I.P.C. His application with similar prayer bearing bail application No. 6 of 2024 came to be rejected by the learned Additional Sessions Judge, Ambajogai, vide order dated 17.1.2024.

2. The informant Babu Gangaram Katkade averred in the report that on 12.12.2023 after having meal, he slept at the Varandah of his house and his wife slept inside the house. At about 1.30 a.m. on 13.12.2023, he perceived that somebody is searching his pocket. He got up and saw that four persons, between the age group of 30 to 35 years, were standing near to him. He raised alarm. One of the

accused assaulted him with Katti/sickle. He sustained injury to his head and there was bleeding from the said head injury. One person out of them took away Rs.1000/- from his pocket. Thereafter, two of them went inside of his house and assaulted on his wife. Some labourers, who heard hue and cry, gathered there. Thereafter, these persons ran away. His wife told him that those persons hurled abuses to her in filthy language and taken away golden and silver ornaments from her person, worth Rs.62,500/-. She was also assaulted by sickle on her head etc. She was admitted in the Government Hospital. After giving primary treatment, the informant was admitted in Sahyadri Hospital, Latur. During treatment, he lodged the report.

3. Learned advocate for the applicant submitted that the applicant is falsely implicated in the crime. No any amount or article are seized at his instance. The applicant has roots in the society and he will not flee away from the trial. Practical investigation is over. He therefore, prayed of bail. He is relying upon the authority of this Court in the case of **Anuj Gangaram Chougule vs. State of Maharashtra, reported in AIROnline 2019 Bom 1783**. He pointed out para 11 of the said judgment, which reads as under:-

“11. Hence, considering the only solitary piece of evidence i.e. statement of waiter at Dhaba, which is also a weak piece of evidence against present Applicant, in the present circumstances, the Applicant deserves to be released on

bail. Restrictions under section 21(4) of the MCOC Act will not operate against the Applicant because from the charge sheet it cannot be observed that the Applicant is guilty of this particular offence. Therefore, at this stage there are no reasonable grounds to believe that the Applicant is guilty of the offences under MCOC Act.”

4. Learned A.P.P. for the respondent-State has strongly opposed the application and submitted that there are criminal antecedents to this applicant. He will not be available for trial. The applicant is booked for serious crime. Learned A.P.P. lastly prayed for rejection of the application.

5. Perused the papers of investigation, particularly report and injury certificates of informant and his wife. There are two Medico Legal Certificates of the informant and his wife each, issued by two different hospitals. The stick and sickle are seized at the instance of the applicant as per Section 27 of the Indian Evidence Act. The applicant has criminal antecedents and he was arrested in similar nature of crime. There is possibility of fleeing away from the trial. If the applicant is released on bail, he would certainly pressurize the witnesses. The other three accused are absconding and stolen articles are not yet seized.

6. Considering the role of this applicant and merely because the test identification parade is not held, the applicant cannot be released

on bail. The applicant has criminal antecedents. He is involved in similar nature of crime. Therefore, there is possibility of commission of similar nature of crime in future on his part. His presence cannot be easily secured. Therefore, in view of the guidelines given in the judgment of the Hon'ble Supreme court in the cases of ***Deepak Yadav Vs. State of Uttar Pradesh and another, (2022) 8 SCC 559***, and ***Shahzad Hasan Khan Vs. Ishtiaq Hasan Khan and another, (1987) 2 SCC 684***, the applicant is certainly not entitled for bail.

7. In different set of facts, the authority cited by learned advocate for the applicant in the case of ***Anuj Gangaram Chougule (supra)*** is not helpful to the applicant, because in that case the entire investigation was over. Therefore, the ratio laid down in it cannot be made applicable to the present case. Considering all these aspects, the application deserves to be rejected and it is rejected accordingly.

(SANJAY A. DESHMUKH, J.)

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