



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 712 OF 2024

SACHIN @ BABDYA BAPURAO BHOSALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms. Amita D. Chate
APP for Respondent : Mr. S. M. Ganachari
...

CORAM : S. G. MEHARE, J.

DATE : 14-06-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant seeks bail in C.R.No.178 of 2023 registered with Malakoli Police Station, District Nanded, for the offences punishable under Sections 302, 397, 457 and 336 read with Section 34 of the Indian Penal Code.
3. The alleged incident happened during the course of committing theft. One of the ladies was assaulted with iron pipe. Her husband was also assaulted. The so-called huge golden ornaments were snatched from the house of complainant. The first information report reveals that the son of the complainant saw one of the accused covering head with yellow handkerchief. After the incident, the police received information that the applicant was going to sell the stolen property, hence, they recovered broken

silver ornaments. The prosecution did not conduct the test identification parade.

4. Learned counsel for the applicant submits that the applicant being Pardhi, has been time and again involved in the false crime. Such attempt was made in another crime and it was proved that at the time of the alleged incident, he was in jail. She further argued that the so-called recovery is sham and concocted. Only to show the detection of crime, the applicant has been arraigned as accused alongwith his brother. Hence, he may be granted bail.

5. Learned A.P.P. for the respondent has vehemently argued that a serious offence has been committed. The applicant is habitual in committing identical offence. The stolen property has been recovered from the pocket of the applicant. The said property was identified. In a case like this, the recovery is strong evidence to link the involvement of the accused in the crime. Since the offence is serious, bail may not be granted.

6. There should be a prima facie evidence to inspire the confidence that the applicant/accused has been involved in the crime. The bare recovery of the ornaments which are very small in quantity compared to the so-called stolen property may not be a ground to refuse bail in this case for the reason that test identification parade has not been held. Considering the past act of the police involving him in the crime on the day on which the

applicant was in jail, the submission of the learned counsel for the applicant may be considered. This Court definitely has sympathy that the person died in such incident, the Court is bound to follow the law and take the decision of the case on the facts placed before it.

7. For the above reasons, this Court is of the view that the detention of the applicant would serve no purpose. However, certain conditions may be imposed. Hence, the order:-

ORDER

- i) The application is allowed.
- ii) Applicant Sachin @ Babdya Bapurao Bhosale be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall report the concerned Police Station every Tuesday between 11 a.m. and 2.00 p.m. till conclusion of the trial.
 - (c) He shall not indulge in the identical crime.
 - (d) He shall attend the trial on each date and avoid protracting the trial.

(S. G. MEHARE)
JUDGE