

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1504 OF 2024

Thakan @ Nitin Bhausaheb Alhat

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Andhale Sandip Ramnath

APP for Respondent/State : Mr. S.P. Sonpawale

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CORAM : S.G. MEHARE, J.

DATED : SEPTEMBER 05, 2024

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. This is a successive bail application of the applicant in Crime No.485 of 2023 registered with Sonai Police Station, District Ahmednagar for the offences punishable under Sections 307, 326, 324, 504, 506, 143, 147, 148, 149 of the Indian Penal Code, Sections 3/25, 4/25 of the Arms Act and Sections 37(1)(3) and 135 of the Maharashtra Police Act.
3. This Court rejected the earlier bail application of the applicant examining the material on record. The CCTV footage was recovered. The complainant identified the applicant in the CCTV footage. Considering the material, this Court refused the bail. The applicant has filed this second application before the Sessions Court along with the affidavit of the complainant Lahu s/o Ramnath

Dhanwate, contending that the applicant did not beat him. He was not known to him. Later on, he learnt that his name was added to the crime. He had no concern with the applicant. He is a resident of Village Sonai. Hence, he has sworn in an affidavit.

4. The complainant appears to be a man lying again and again. In his affidavit before the learned Sessions Court as well as this Court, he has shown his occupation as labour. In fact, he is a businessman. Now, the counsel for the complainant says that, inadvertently the occupation is shown as labourer. His earlier notarized affidavit dated 15.07.2024, falsifies him, which shows his profession as labourer. Perhaps this may be an attempt on the part of the lawyer to save the skin of the complainant. Comparing these two affidavits, it is clear that the mistake was not on the part of the person typing the affidavit. Hence, the explanation of the learned counsel for the complainant stands rejected.

5. Now, in an affidavit before this Court, he sworn in that he has personally gone through the CCTV footage and other information. He did not find the applicant in the CCTV footage. However, due to misunderstanding and incorrect information, he mentioned the name of the applicant before the police during the registration of the crime. Therefore, he voluntarily submitted this affidavit. He has withdrawn the allegations against the applicant.

Consequently, he has no objection allowing the bail application seeking bail.

6. The contents of the affidavit are crystal clear that he wanted to exonerate the applicant against whom he had seriously raised the allegations. Pursuant to the allegations, the crime was registered against the applicant. He was arrested on 07.02.2024. Since then, he was languishing in jail. It seems that the complainant wanted to put the police, the Court and many more at his finger as per his desire and will. Due to his allegations in report, the entire government machinery was acted upon and the applicant was arrested. It is apparent that without any substance, he has been sent to jail only due to the complaint and the identification of the applicant. It is most painful in our country to stay in overcrowded jails. The condition of jail and inmates is miserable. Due to overcrowding in the jail, the under trials or the accused often do not get a place to sleep. They suffer from many contagious diseases. His fundamental right to liberty has also been curtailed only due to the false and incorrect identification of the applicant by the complainant.

7. The question is who will compensate the applicant for wrongly involving in the crime, and resultantly detaining him in jail for around six months? It is now a high time to take the matters seriously who are putting the machinery at their fingers. No citizen has a right to put the machinery into action on such an irresponsible

statement and curtail the fundamental rights of a single person. The applicant has lost six valuable months of his life without any reason. Therefore, he must be compensated. Liberty cannot be measured in money. However, monetary compensation is the general practice. It is measured on the basis of the standard of living, the loss of income, the inhumanity caused to such a person and the financial position of the wrongdoer. The accused was a labourer as disclosed to the Court. He must be earning not less than 20,000/- per month. The complainant is a businessman, though he falsely stated in his affidavit that he is a labourer. So, it could be presumed that he has a handsome income. Therefore, this Court quantified Rs. 3 lacs compensation to the complainant for curtailing the right to liberty and Rs. 1,20,000 for loss of income.

8. As far as the bail is concerned, the affidavit of the complainant is deciding the fate of the trial against him. By affidavit he also brought the fact to the notice of the Court that the applicant has been involved in the crime falsely. It is a ground for considering the successive bail application. Hence, bail is granted to him. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Thakan @ Nitin Bhausaheb Alhat, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees

Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that;

(a) The applicant should not tamper with the prosecution witnesses and should attend the trial on each and every date.

(iii) The complainant Lahu s/o Ramnath Dhanwate is directed to pay Rs.4,20,000/- to the applicant for the loss of his income and compensation for curtailing his liberty within two months from today. He should deposit the money as directed above with the learned Trial Court.

(iv) The learned Trial Court is directed that if this order is not complied with, necessary action for recovery of the money as provided under the law shall be initiated against him.

(S.G. MEHARE, J.)