



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

922 BAIL APPLICATION NO. 1961 OF 2024

TONYA @ SOPAN BHAUSAHEB KALE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. N. S. Ghanekar

APP for Respondent-State: Mr. A. A. A. Khan

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CORAM : ARUN R. PEDNEKER, J.

DATE : 19.12.2024

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is seeking bail as he is arrested on 4.6.2024 in connection with Crime No.283 of 2024 dated 4.6.2024 registered with Gangapur Police Station Dist. Aurangabad, for the offences punishable under sections 302, 394, 397, 460 read with 34 of Indian Penal Code.

3] The FIR came to be registered on the information given by Latabai wherein it is stated that on 3.6.2024 at about 10 p.m. she and her husband had slept in the courtyard. At about 1 a.m. (midnight) she saw three unknown persons in her courtyard. They forcibly snatch 4 gm gold tops worth Rs. 20,000/- from her ears and 4 grams gold, 30 mani and 2 Dorle worth Rs. 20,000/- from her

neck and ran away. It is alleged that thereafter, she gave a call to her husband but he did not wake up. When she went there, she found her husband had sustained severe injury. Thereafter, she called her neighbours, the injured was taken to the hospital where he was declared dead.

4] It is stated that the applicant is arrested on 4.6.2024 and he is in jail since then. Investigation in the matter is completed and charge-sheet is also filed.

5] It is the contention of the applicant that T.I parade was conducted and the informant was able to identify the accused No.3 but could not identify accused No.1/the applicant herein. The applicant submits that there is absolutely no other material connecting the applicant to the crime.

6] The learned counsel submits that, considering the same, that there is no evidence as far as applicant is concerned, being connected to the crime and that there is no recovery of any stolen property at the instance of the applicant, he be released on bail.

7] Per contra, learned APP submits that the blood stained shirt is attached from the applicant. It is further submitted that the applicant is involved in various similar other offences as such, considering the antecedents, bail be not granted.

8] Considering the rival submissions, it is to be noted that the applicant was not identified by the informant so also the Chemical analysis report of the shirt of the applicant is awaited. Further, there is no recovery at the instance of the applicant under Section 27 of Indian Evidence Act.

9] As of today, there is no *prima facie* evidence qua the present applicant connecting him with the present crime. Considering the fact that the applicant belongs to a particular community, who are ordinarily roped in whenever offences like robbery and dacoity are committed, the possibility that the applicant is implicated cannot be ruled out. It is not known as to how the Investigating Officer called the applicant for questioning in absence of any connecting material. Although, the learned APP points out that there are antecedents of the present applicant, notwithstanding the same, this court is unable to keep applicant in custody without there being any connecting evidence pointing that the applicant is involved in the crime.

10] In view of the above, the bail application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No.283 of 2024 dated 4.6.2024 registered with Gangapur Police Station

Dist. Aurangabad, for the offences punishable under sections 302, 394, 397, 460 read with 34 of Indian Penal Code, on furnishing PR bond of Rs.15,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant and witnesses, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

11] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal

of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

12] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

PRW