



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 BAIL APPLICATION NO. 2291 OF 2023

- 1) Khaisarkhan Habibkhan Pathan
- 2) Akbarkhan s/o Habibkhan Pathan

VERSUS

The State of Maharashtra

...
Advocate for Applicant : Mr. Syed Azizoddin R.
APP for Respondents: Mrs. Pratibha J. Bharad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 29th JANUARY, 2024.

PER COURT :-

1. The applicants are seeking bail under section 439 of Cr.P.C. in connection with crime No. 343 of 2023 registered with Gandhi Chowk police station, Latur, District Latur, for the offences punishable under Sections 457, 380, 411, 120-B r.w. 34 of I.P.C. Their application with similar prayer bearing criminal bail application No. 797 of 2023 came to be rejected by the learned Additional Sessions Judge-3, Latur, vide order dated 21.11.2023.

2. The informant averred in the report that on 27.8.2023, he closed down his shop at about 9.00 p.m.. On 28.8.2023, at about 7.30 a.m. he received a phone call from his friend that the shutter of his shop has been partly opened. He went there and noticed that mobile handsets, tabs, smart watches etc. were stolen away. Accordingly, the F.I.R. came to be registered. The applicants and

other co-accused were arrested. Stolen articles were seized from them. Investigation is over and the charge sheet is filed.

3. Learned advocate for the applicants submitted that the incriminating articles are seized. The further custodial interrogation of the applicants is not necessary. The applicants have roots in the society. Co-accused are released on bail. He lastly submitted to allow the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and pointed out that the mobile handsets etc. are seized at the instance of the applicants. Applicant No.2 has criminal antecedents, as he is arrested in 23 cases. Considering serious nature of the crime, it is lastly prayed to reject the application.

5. Perused the charge sheet. The incriminating articles are seized at the instance of the applicants under Section 27 of the Indian Evidence Act, 1872. Though, learned A.P.P. submitted that applicant No.2 is involved in 23 crimes, however, entire investigation is over and the charge sheet is filed, the custody of the applicants, including applicant No.2, is not necessary for further investigation. The applicants have roots in the society. The applicants will not flee away from trial. The trial will take long period. Considering all these aspects, the applicants can be released on bail by imposing certain conditions. The application therefore, deserves to be allowed.

Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicants in connection with crime No. 343 of 2023 registered with Gandhi Chowk police station, Latur, District Latur, for the offences punishable under Sections 457, 380, 411, 120-B r.w. 34 of I.P.C. be released on bail on furnishing personal bond of Rs.50,000/- each with one surety each of the like amount on following conditions:-
 - a) The applicants shall not tamper with the prosecution evidence and shall not pressurize the prosecution witnesses, in any manner.
 - b) The applicants shall not leave the Maharashtra State without the permission of the Trial court.
 - c) The applicants shall not involve themselves in similar kind of offences.
 - d) The applicants are further directed to furnish their phone numbers and residential address to the concerned investigating officer.
 - e) If the applicants flout the above conditions, the investigating officer or the prosecution may apply to the trial court for cancellation of bail. The trial court shall decide it on merits without reference to this Court.

(SANJAY A. DESHMUKH, J.)