



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

BAIL APPLICATION NO. 7 OF 2025

Dadarao s/o Hirabansi Pawar
Age: 52, Labour, R/o.Halkheda Shinfala,
Tal.Muktai Nagar, Dist.Jalgaon.Applicant

Versus

The State of Maharashtra
(At the instance of Cidco Police Station,
Dist.Aurangabad)Respondent

.....
Advocate for Applicant : Mr. Shaikh Faisal Naseemuddin
APP for Respondent : Mr.C.VBhadane

.....

CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 03 FEBRUARY, 2025
PRONOUNCED ON : 05 FEBRUARY, 2025**

ORDER :

1. This is a regular bail application on account of arrest of applicant in Crime no.0357 of 2021 registered at Muktai Nagar Police Station, Muktai Nagar, Dist.Jalgaon, for offence under Sections 395, 396, 506 of the Indian Penal Code (IPC).

2. In support of relief, learned counsel pointed out that applicant is arrested in above crime way back on 08-11-2021 and since then he is behind bars. There is false implication. Pointing to the FIR,

learned counsel submitted that therein only name of accused is given as “Pawar” and in first supplementary statement, name is shown as “Shivaji Pawar” and in second supplementary statement recorded at a later point of time, full name of applicant has been inserted.

3. He further submitted that, there was no motive or any previous acquaintance between deceased and applicant. He pointed out that there is said to be some financial transaction and it is alleged that applicant withdrew Rs.27,000/-, but in the bank statement of deceased, transaction is said to be carried by mode of UPA payment transaction. That, there is nothing incriminating against applicant. That, CA report does not suggest involvement of present applicant. He further pointed out that other co-accused is already granted bail and therefore, on the ground of parity also, learned counsel seeks grant of relief.

4. Learned counsel emphasized that since arrest of applicant in November 2021, there is no progress in matter and Roznama placed on record suggests that matter is getting adjourned for want production of accused. That, there is long incarceration and hence, applicant seeks enlargement on bail.

5. Learned APP, who opposed bail, would point out that serious offence of dacoity has been committed. That, there is murder and robbing of deceased. That, investigation revealed that two ATM cards belonging to deceased are recovered at the instance of applicant and as such, there is strong incriminating material against him. That, he has used the same and he has also withdrawn amounts and therefore, with such material, learned APP seeks rejection fo bail application.

6. Heard. Perused the papers. One Anil Ananda Nikam, r/o Savarde (Bk), Tq. Kagal, Dis.Kolhapur seems to have lodged report with Nandura Police Station, that he and deceased, who were friends, decided to go on a pilgrimage at Shegaon and accordingly, initially travelled upto Aurangabad and from there, further travelled by S.T. Bus and private Jeep. He claims that, on the way, deceased made telephone call to his known acquaintance and informed that they are reaching Nandura and accordingly, reached there. Subsequently, deceased allegedly received a phone call from person named Pawar conveying that he is personally unable to come and that he would send someone for pickup and accordingly, one person came on motorcycle with whom he and deceased proceeded and they were

taken to a spot, which was ahead of Vadodagaon village and there, some 6-7 persons were already present. Such persons started beating deceased as well as informant and they were robbed off their ATMs and forced to disclose pin codes for using ATM and even forced deceased to call his nephew Sunil Patil and demanded Rs.25,000/-, then Rs.30,000/- and again started beating both deceased and informant. They were later on brought to a spot near the road, dropped and threatened. Informant managed to shift deceased to hospital, but he was on examination declared dead. On above report, crime has been registered for offence under Sections 396, 395, 506 of the IPC at Nandura Police Station on 06-11-2021 i.e. next day.

7. As pointed out that FIR carries name of a person to whom deceased called up as "Pawar", but in supplementary statement of informant recorded on 07-11-2011, he has not given name of even "Pawar" and on such date he has given detailed narration. Third statement is recorded on 06-01-2022 about deceased having talk with Dadarao Hirabansi Pawar and also gave name of Vijay Pawar for taking them on motorcycle.

8. Learned APP, on court query, could not answer whether T.I.

parade has been conducted. On further query whether CDR has been gathered, as there was some alleged telephonic contact by deceased with one Pawar, learned APP submitted that there is no CDR in the entire chargesheet. Prosecution has chargesheeted as many as nine persons in their chargesheet filed on 5-2-2022. Accused no.7 to 9 are shown to be absconding and proceedings are shown to be initiated by taking recourse to Section 299 of the Code of Criminal Procedure.

9. Thus, what is emerging that FIR is by a person, who did not know present applicant or co-accused Vijay. As stated above, initially only surname as “Pawar” is reported and subsequently name is changed from Shivaji to Dadarao. Applicant is behind bars since November 2021.

On Court query, learned APP is unable to state, what is the stage of the matter in the trial Court, as to whether charge is framed yet or not. Apparently, almost for more than three years applicant is behind bars. Co-accused is already set at liberty by learned trial court by order dated March 2022 itself. Taking the above discussion into consideration, merely for want of absconding accused, there cannot indefinite incarceration. Therefore, relief deserves to be granted by imposing stringent condition. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Dadarao s/o Hirabansi Pawar be released on bail in connection with Crime no.0357 of 2021 registered with Muktai Nagar Police Station, Dist.Jalgaon on executing Personal Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.
- (vi) Applicant shall not leave the jurisdiction of Muktai Nagar Police Station, Tq.Muktai Nagar, Dist.Jalgaon, without prior permission of the Court.

(ABHAY S. WAGHWASE)
JUDGE