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

BAIL APPLICATION NO.2232 OF 2024

Sameer @ Chingya S/o Raju Sayyad,
Age: 36 years, Occu.: Business,
R/o. Salbatpur, Tq. Newasa,
Dist. Ahmednagar.

... Applicant

Versus

The State of Maharashtra
Through: The Police Station Officer,
Police Station Shrirampur City,
Tq. Shirampur, Dist. Ahmednagar.

... Respondent

WITH

BAIL APPLICATION NO.287 OF 2025

Balu @ Balasaheb @ Bayang
S/o. Sudmal Kale
Age: 38 years, Occu.: Labour,
R/o. Gevrai, Tq. Newasa,
District Ahmednagar.

... Applicant

Versus

The State of Maharashtra
(At the instance Shrirampur Taluka
Police Station, Ahmednagar)

... Respondent

.....

Mr. S.D. Kotkar, Advocate for Applicant in BA/2232/2024
Mr. Shaikh Faiksal Naseemuddin, Advocate for Applicant in
BA/287/2025
Mr. Santosh Kendre, APP for Respondent - State

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 20 FEBRUARY 2025

PRONOUNCED ON : 21 FEBRUARY 2025

PER COURT :-

1. Present applications are filed for grant of regular bail on account of arrest of applicants in Crime No.669 of 2021, registered at Shrirampur City Police Station for offences punishable under Sections 394, 395, 458, 120-B read with 34 of the Indian Penal Code (IPC) and under Sections 3(1)(ii), 3(2) and 3(4) of Maharashtra Control of Organised Crime (MCOC) Act.

SUBMISSIONS**In Criminal Bail Application No.2232 of 2024**

2. Learned counsel representing accused Sameer, would submit that, FIR is apparently against unknown persons. That, there is subsequent arrest on 01.10.2021, and since then applicant is behind the bars. Learned counsel pointed out that, similarly placed accused No.1 Ajay is already granted bail by order dated 29.02.2024, therefore, on the ground of parity also, applicant deserves similar treatment. He further pointed out that, charge-sheet is filed way back in March 2022. He pointed out that accused are even not produced before the trial Court on given dates, therefore, there are no immediate chance of commencing the trial and further it getting concluded.

In Criminal Bail Application No.287 of 2025

3. Learned counsel representing accused Balu @ Balasaheb @ Bayang also submitted that FIR is apparently against unknown persons. That, present applicant is shown as accused No.5. That, no allegations are levelled against him in indulging in physical violence. He pointed out that, at the instance of present applicant, it is alleged that, there is recovery of ornaments, however, co-accused namely Ajay, against whom also there is recovery of more ornaments, is already beneficiary of bail. Learned counsel submitted that, even apart from bail, in conducting test identification parade, dummies used are of the age group of 20 to 30 years, where the present applicant is shown to be 34 years of the age. Therefore, there is violation of guidelines of test identification parade also. Learned counsel further submitted that, he seeks reliance on judgments of Hon'ble Apex Court as well as this Court, on this point. He also pointed out that applicant being behind the bars since more than four years, it amounts to long incarceration, and therefore, there being no immediate prospects of commencing the trial and further it getting concluded, learned counsel prays for grant of bail.

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4. Learned APP opposed on the ground that, now trial is already commenced. Learned APP pointed out that co-accused, who is released was a goldsmith, who had purchased stolen property. Therefore, his role cannot be equated with the present applicant, who have indulged in the serious crime, and therefore, it is not open for them to seek parity. Learned APP pointed out that in this case, provisions of MCOC Act are also invoked. That, test identification parade has also been conducted. That, both accused have criminal antecedents. Hence, for above reasons, bail application is opposed.

5. Heard. Perused the papers. Apparently, as submitted that FIR is at the instance of one Viraj Khandagale against unknown thieves for breaking his house in the night of 2309.2021, and taking away belongings worth of Rs.2,82,000/-. Applicants are shown to be arrested in above crime on 01.10.2021. Both learned counsel seeking parity on the ground that accused Ajay is succeeded in seeking bail by order dated 29.07.2024. On visiting the said order, this Court, in paragraph 5, has primarily taken into consideration that applicants have not been produced in the Court since April 2022, and that even charges are not framed. Therefore, relying on the judgment of Hon'ble Apex Court in the case of ***Javen Gulam Nabi Shaikh Vs. State of Maharashtra and others;*** ***MANU/SC/0609/2024, dated 03.07.2024***, applicant therein Ajay

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was granted bail. Admittedly, present applicants are also arrested in above crime, and charge-sheet shows that they are arrested on the one and same day i.e. 01.10.2021. Learned APP could not point out that since filing of charge-sheet dated 28.03.2022, why there is no progress in the trial. Almost four years have lapsed since their arrest. No further recovery or discovery to be made. Though there are criminal antecedents, however, taking into consideration the above period of long pretrial incarceration, and when similarly placed accused is already beneficiary of bail, there is no reason to refuse similar relief, present applications are also deserves to be allowed. Hence, the following order :

ORDER

- (i) Applications are allowed.
- (ii) Applicants Sameer @ Chingya S/o. Raju Sayyad and Balu @ Balasaheb @ Bayang S/o. Sudmal Kale be released on bail in connection with Crime No.669 of 2021 registered with Shrirampur City Police Station, District Ahmednagar on executing Personal Bond of Rs.15,000/- each with one surety each in the like amount.
- (iii) Applicants shall not indulge in similar offence.
- (iv) Applicants shall not tamper prosecution evidence.

**ABHAY S. WAGHWASE,
JUDGE**