



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

BAIL APPLICATION NO.2082 OF 2024

Suraj S/o Tukasing Thakur
Age 19 years, Occu.: Education,
R/o. Datta Nagar, Nanded

... Applicant

Versus

The State of Maharashtra

... Respondents

.....
Mr. B.N. Patil, Advocate h/f Mr. R.N. Kolekar, Advocate for Applicant
Mr. P.K. Lakhotia, APP for Respondent - State

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 03 JANUARY 2025

PRONOUNCED ON : 07 JANUARY 2025

ORDER :

1. By invoking Section 439 of the Code of Criminal Procedure, present application is filed for grant of regular bail on account of applicant's arrest in Crime No.00043/2024 registered at Shivaji Nagar Police Station, Nanded for offences under Sections 395, 397 read with Section 34 of the Indian Penal Code (IPC) and under Section 4 read with 25 of the Arms Act.

2. Pleading innocence and false implication, learned counsel pointed out that, applicant is arrested on mere suspicion. That alleged occurrence is of 31.01.2024, but FIR is lodged on next day and as such there is

delay. It is further pointed out that, applicant is barely 19 years of age and he is undertaking education. That there are allegations of robbing complainant of cash and mobile. That no physical description of accused persons was provided. That even no test identification parade is conducted. That applicant is behind bars since February 2024. Other co-accused are already set at liberty. That nothing is to be recovered from applicant. Now, investigation is over and charge-sheet is also filed, but trial has not yet commenced. Learned counsel pointed out that, before learned Sessions Court, provision under Section 439 of the Code of Criminal Procedure was invoked, but application is rejected on the sole ground that, he is likely to commit similar offence. Learned counsel for applicant submits that such observations are misplaced and there is no foundation to that extent. Hence, application is sought to be granted.

3. While opposing the application, learned APP took recourse to charge-sheet and points out that the applicant is named in the charge-sheet itself and therefore, no necessity for conducting test identification parade. He pointed out that complainant has been assaulted by sharp object and there are as many as eight grievous injuries. That injury certificate is also on record. That apart from being named in FIR, learned APP pointed out that, applicant's name is also appears in statement recorded under Section 164 of the Cr.P.C. For all above reasons, he opposed the bail application.

4. Heard both the sides. Perused the papers. FIR seems to be at the instance of Amol Nagnath Chunukwar reporting that, on 31.01.2024 in the evening, in the vicinity of Railway bridge, three persons, whose names are given, including present applicant and others approached complainant and he was assaulted on head, lower limbs and he was robbed of Rs.36,000/- and mobile phone. Apparently, occurrence of evening of 31.01.2024, is reported on 01.02.2024. In the FIR, there are allegations that while informant was walking by Railway track, he was intercepted by five unknown persons and after beating him, they demanded money and he was also directed to make phone call to his friend namely Anand Bhosale and arrange money and bring it near Maharana Pratap statue. It is alleged in the report that present applicant was asked by one of the accused to go and collect the amount. On report to above extent, crime is registered at Shivaji Nagar Police Station for aforesaid offence. Copy of M.L.C., which is part of charge-sheet, shows that informant has suffered grievous injuries including fracture to the parietal bone. Present applicant and one Adinath are said to be of 19 and 23 years of age respectively and statement is made across the bar that remaining co-accused being juvenile are already on bail. Papers show that there is recovery of dagger at the instance of one juvenile Yash.

5. There is no dispute that as on today charge-sheet is already filed. Attempt to seek bail before learned Additional Sessions Judge, Nanded went futile. Learned Court below in para 8 observed that, if applicant is released on bail, he is likely to commit similar offence. Considering the gravity of offence, quantum of punishment, application was rejected.

6. Applicant is shown to be 19 years of the age. There is nothing to show that there are immediate prospects of commencement of trial. Therefore, when there is no other convincing reason for continuing custody and more particularly, considering his age, relief as prayed deserves to be granted. Hence, the following order:

ORDER

- (i) Application is allowed.
- (ii) Applicant Suraj S/o Tukasing Thakur be released on bail in connection with Crime no.00043 of 2024 registered with Shivaji Nagar Police Station, Nanded on executing P.B. and S.B. of Rs.15,000/- with one or more sureties in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.

**ABHAY S. WAGHWASE,
JUDGE**