



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

BAIL APPLICATION NO. 2176 OF 2024

Ganesh s/o Laxman Bhosale
Age: 23 years, Occu.: Private Service,
R/o. Kadim Shahapur, Tq.Gangapur,
Dist.Aurangabad.Applicant

Versus

The State of Maharashtra
Through Police Inspector,
Shillegaon Police Station,
Tq.Gangapur, Dist.Aurangabad.Respondent

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Advocate for Applicant : Mr. Vilas S. Janephalkar
APP for Respondent : Mr.N.D.Batule
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 03 JANUARY, 2025

PRONOUNCED ON : 07 JANUARY, 2025

ORDER :

1. By invoking Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), applicant is seeking relief of regular bail as a result of his arrest in Crime No.0055 of 2021 registered at Shillegaon Police Station, Dist.Aurangabad for offence under Sections 399, 402 of the Indian Penal Code (IPC) and Sections 4 read with 25 of the Arms Act.

2. It is submitted that above crime is registered in March 2021 and present applicant is arrested on 05-11-2024 i.e. almost after three and half years. It is pointed out that crime is registered at the instance of Police Officer alleging commission of offence under Sections 399 and 402 of the IPC and under Sections 4 read with 25 of the Arms Act. Learned Counsel for the applicant pointed out that there is false implication. That there is nothing to connect present applicant with main accused nos.1 and 2. That applicant is arrested on alleged information given by said apprehended accused i.e. while in custody. Now investigation is also over and chargesheet is also filed. That nothing is to be recovered from the applicant and for all above reasons, learned Counsel prays for grant of bail.

3. While opposing the above application, learned APP pointed out that though FIR is of 2021, applicant was amongst other accused, who are arrested. Present applicant being absconding was not apprehended alongwith other accused. It is pointed out that arrested accused themselves named present applicant to be their associate. According to learned APP, on 13-03-2021, information was received that 4-5 persons are about to commit dacoity and therefore, Police party proceeded to the given spot. That seeing police, persons sitting

in the Scorpio vehicle fled in the dark. That persons namely Pramod Shirsath and Jitu Gaikwad were apprehended on the spot on 13-03-2021 itself and above crime was registered. As regards to present applicant is concerned, he was amongst those who managed to escape, but was arrested on 05-11-2024 as he remained absconding. Therefore, for above reasons, application and relief is opposed.

4. Perused the FIR, which seems to be at the instance of Police Officer. Admittedly, on information, Police party claims to have come across a vehicle carrying 4-5 persons, who are about to commit offence under Section 399 of the IPC and were said to be armed with articles like sticks, iron rod. Said vehicle was given chase, but taking advantage of darkness, it is reported that some of the persons managed to flee. Two persons were arrested and on vehicle search, articles like iron rod, sticks, nylon rape were said to be found.

5. Present applicant seems to be arrested on 05-11-2024. Learned APP made a statement that applicant was absconding and hence, could not be arrested and that applicant was found to be associate of apprehended accused and while in custody, such apprehended accused named applicant. Apparently since registration

of crime and apprehension of some accused, applicant is arrested after more than three and half years. On Court query, learned APP himself answered that applicant was arrested from his home itself. There is nothing to show that steps were taken by investigating machinery to trace applicant, but he was not found and was therefore, declared absconding. Procedure after realizing that applicant has absconded, are also apparently not followed. Learned APP does not deny that applicant was picked up on 05-11-2024 from his own house. What is to be recovered or discovered from applicant is also not satisfactorily shown. There is nothing to show that present applicant was connected with apprehended accused. Taking above discussion into consideration, relief as prayed deserves to be granted. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Ganesh s/o Laxman Bhosale be released on bail in connection with Crime no.0055 of 2021 registered with Shillegaon Police Station, District Aurangabad on executing Personal Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.

(ABHAY S. WAGHWASE)
JUDGE