



Order below application vide Exh.9 for grant of bail under
Section 439 of Cr.PC.
(Passed on this 27th day of June, 2023)

The accused Rohit @ Angya S/o. Prakash Kamble & Amol @ Mama S/o. Bhimrao Jadhav have filed this application under Section 439 of Cr.PC. for enlarging them on regular bail in connection with Crime No.426/2022 registered with Gandhi Chowk-Police Station, Latur for the offences punishable under Section 396 of the Indian Penal Code (In short 'I.P.C.').

2. It is alleged by the prosecution that, on 25.10.2022, informant noticed about dirty smell from the staircase of under construction building, near Temple of the Goddess in Ganj Golai, Latur. So, informant and other Police staff reached at the spot and found one dead-body lying on the staircase of the said under construction building. So, crime came to be registered against unknown person. During investigation, it is transpired that, the applicants/accused & other co-accused took deceased towards the staircase of Ganj Golai with intention to rob him and on refusing to give the mobile and money, the applicants/accused caught-hold the deceased and co-accused strangulated deceased by waist belt and assaulted by stone and tube light on head and committed murder while committing dacoity.

It is further contended that, the applicants are innocent

and they have not committed any crime. The crime was registered against unknown persons and the investigating agency is unable to trace out the identity of deceased. There is no motive or intention to commit the offence. The accused have been put under arrest on 28.10.2022. The co-accused who has some serious role in the alleged crime has been enlarged on bail, so on the ground of parity, the accused are entitled for bail. The discovery of the place of incident as per the disclosure statement of the accused is not admissible as the said place was already known to the police. The applicants have no criminal antecedents. They will not hamper or tamper the prosecution evidence in any manner and ready to abide the conditions. So, urged to allow the application.

3. The Investigating officer filed reply vide Exh.21 and resisted the application by contending that, the accused with other co-accused committed dacoity with murder. The nature of the offence is serious. Both the accused have criminal antecedents and crime has been registered against them in various Police Station. If the accused are enlarged on bail, then the possibility of threatening prosecution witnesses can not be ruled out. So, urged to reject the bail application.

4. Heard Ld. Advocate appearing for the applicants/accused and Ld. A.P.P. appearing for the prosecution. Gone through the material on record.

5. The crime came to be registered against the applicants/accused and co-accused for the offence punishable U/Sec. 396 of I.P.C. with the allegations that, the accused took the

deceased in staircase under construction building with intention to rob him and on refusal to give money and mobile, the accused and co-accused assaulted him, strangled and killed the deceased.

6. On perusal of material on record, it appears that, the applicant/accused Rohit Kamble made disclosure statement U/Sec. 27 of the Evidence Act. In the said statement, he has stated that, prior to five to six days of 28.10.2022 at or about 10.30 p.m., he himself and co-accused came at Bus stand, Latur. They saw one person in drunken state. They also noticed that, the said person have mobile and money. So, with intention to rob him, they offered him liquor and took in staircase of under construction building and tried to snatch mobile and money, but the said person refused. So, accused No.2 caught-hold him, co-accused Chimnya and Salman strangled the deceased by waist belt, accused Sahil assaulted by big stone, so the deceased sustained head injury and the applicant/accused No.1 brought one tube light lying nearby and hit it on the head of the deceased. So, the deceased become unconscious and fell. Thereafter, the mobile and money of the deceased was snatched by co-accused Salman. The accused No.1 has produced the clothes wore by him at the time of incident. The accused No.1 has also made disclosure statement on 31.10.2022 about the incident and the place of the incident. The co-accused Salman has also made disclosure statement and produced the clothes concealed in the house.

7. On perusal of statement of the witness Rahul Balaji Doltade, it appears that, on 22.10.2022 at or about 11.30 p.m.

while he was returning towards his house from Ganj Golai, Latur, at that time, he heard sound of quarrel from the floor of the northern side gate of Ganj Golai. So, he went towards the said sound and saw that, on the staircase of second floor, both the applicants/accused and co-accused i.e. in all five were assaulting to one person. That person has sustained bleeding injuries and blood was oozing. By seeing such incident, he was frightened and left the spot. He was afraid of life as he witnessed the incident and the assailants seen him, so he didn't disclose the said incident to anybody.

From the statement of this witness, it appears that, he is the direct witness of the incident and he personally seen the accused assaulting the deceased.

8. This material on record prima-facie shows about the involvement of the applicants/accused. The investigating officer has shown the apprehension of tampering and threatening the prosecution witnesses by the accused, if they are enlarged on bail. There appears substance in the apprehension of the I.O. from the statement of eye witness.

9. The applicants/accused also urged for the benefit of a parity as co-accused Salman and Sahil are enlarged on bail. Though, these accused have been enlarged on bail, but considering the nature of offence, its gravity and direct involvement of the applicants/accused in such heinous crime of dacoity with murder, the applicants/accused doesn't deserves to be enlarged on bail. Hence, this Court pass the following order.

ORDER

Application below **Exh.9** is hereby rejected.

(Dictated & pronounced in the Open Court).

Dated : 27th June, 2023.
Latur

(D. B. Mane)
Additional Sessions Judge-4,
Latur.