



**Order below application vide Exh.62 for grant of bail under
Section 439 of Cr.PC.**

(Passed on this 22nd day of July, 2024)

The accused **Amol @ Mama S/o. Bhimrao Jadhav** has filed this successive bail application under Section 439 of Cr.PC. for enlarging him 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 contended that, the earlier bail application of the accused was rejected. There is delay of three to four days in lodging FIR. The crime was registered against unknown person. There is no direct evidence. The applicant/accused No.2 has not played any role. The co-accused against whom there are more serious allegations are levelled is already enlarge on bail, so the ground of parity is applicable to the applicant/accused. Hence, this application.

3. The investigating officer filed reply vide Exh.63 and the same has been adopted by the prosecution. The I.O. resisted the application by contending that, the accused with other co-accused committed dacoity with murder. The nature of the offence is serious. The accused has criminal antecedents and crimes have

been registered against him in various Police Stations. If the applicant/accused is 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 applicant/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 applicant/accused and co-accused for the offence punishable U/Sec. 396 of I.P.C. with the allegations that, the accused took the deceased on staircase of under construction building with intention to rob him and on refusal to give money and mobile, the accused and co-accused assaulted him, strangulated and killed the deceased.

6. On perusal of material on record, it appears that, the applicant/accused made disclosure statement under 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 saw that, the said person have mobile and money. So, with intention to rob him, they offered him liquor and took on staircase of under construction building and tried to snatch mobile and money, but the said person resisted. So, applicant/accused caught-hold him, co-accused Chimnya and Salman strangulated the deceased by waist belt, accused Sahil assaulted by big stone, so the deceased sustained head injury and

the co-accused Rohit 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 co-accused Rohit has produced the clothes wore by him at the time of incident. He 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. The applicant/accused also made disclosure statement and showed the spot of incident.

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 to 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 in the direction of that sound and saw that, on the staircase of second floor, the applicant/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.

8. 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.

9. This material on record prima-facie shows about the involvement of the applicant/accused. The investigating officer has

shown the apprehension of tampering and threatening the prosecution witnesses by the accused, if he is enlarged on bail. There appears substance in the apprehension of the I.O. from the statement of eye witness.

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

11. The earlier application filed by the applicant/accused below Exh.9 was came to be rejected by order dated 27.10.2023. Thereafter, there is no change in circumstance.

12. The charge has been framed and now the matter is ready for trial. Considering the nature of offence, its gravity and facts & circumstances discussed above, the applicant/accused doesn't deserves to be enlarged on bail. Hence, this Court pass the following order.

ORDER

Application below **Exh.62** is hereby rejected.

(Dictated & pronounced in the Open Court).

Dated : 22nd July, 2024.
Latur

(D. B. Mane)
Additional Sessions Judge-3,
Latur.