



Order below application vide Exh.64 for grant of Regular Bail.
(Passed on this 7th day of Oct, 2024)

The accused **Rohit @ Angya S/o. Prakash Kamble** has filed this successive application 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, Gandhi Chowk Police had registered the offence against unknown person. It was initially registered under Sec. 302 of I.P.C. and thereafter Sec. 396 of I.P. Code is applied. There is delay of 3 to 4 days in registration of FIR. There is no direct evidence of circumstantial evidence to show the involvement of the applicant/accused. The applicant/accused has not been identified by any witness during investigation. Investigating officer has failed to trace out mobile of the deceased. There is no circumstantial evidence like CDR and SDR of the accused. The earlier bail application of the accused was rejected though the bail application of co-accused was granted. So, on the ground of parity, the the applicant/accused deserves to be enlarged on bail.

3. The Investigating officer filed reply vide Exh.66 and resisted the application by contending that, the applicant/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 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 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, strangulated 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 strangulated 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 applicant/accused has produced the clothes wore by him at the time of commission of incident. The applicant/accused 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, 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. Due to fear of life, he doesn't disclose the said incident and about the assailants 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 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.

9. The applicant/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 by Predecessor of this Court, 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 deserve to be enlarged on bail. Further there is no change in the circumstance from the earlier bail application. Hence, this Court pass the following order.

ORDER

Application below **Exh.64** is hereby rejected.

(Dictated & pronounced in the Open Court).

Dated : 7th Oct., 2024.
Latur

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