

ORDER BELOW EXH. 14
(Dated 01.07.2025)

1] This application is filed under Section 483 of BNSS by applicant/accused Vinod Devidas Sonawane in C.R.No. 725/2024 registered with Daund Police station for the offences punishable under Section 310(2) of BNS.

2] Perused application, say filed by I.O and documents produced by both the parties. Heard Advocate for accused and APP Smt. Naik.

3] The case of the prosecution is that on 27.09.2024 at about 1.00 a.m. near Sonwadi Railway bridge, within the vicinity of village Daund Narendrasing Tawar was driving Tata Truck No. RJ-23-GC-2507 and Subhashchand Mulchand Yadav was slept in the Cabin. At that time 5 unknown persons have stopped the truck by showing knife and robbed cash amount of Rs.56,000/- and Vivo Mobile. They had threatened and beaten them also. Subhashchanda Yadav has lodged report about the incident with Daund Police Station. On the basis of his report, CR No. 725/2024 came to be registered.

4] Advocate for applicant has argued that there is 12 days delay in lodging FIR. There are no direct allegations levelled against the present applicant. Soon after lodging of FIR police launched massive hunt and arrested accused No.1 Aniket Labade on 10.10.2024 and based on the basis of his statement present applicant is arrested. Thus the applicant is arrested on

the basis of statement of co-accused which is not admissible in evidence. The applicant was arrested on 10.10.2024 and he is in jail since 15.10.2024. The investigation into the crime is already completed and the charge-sheet is filed before this Court. The applicant has no any direct or indirect concern with the alleged offence. He is falsely implicated in the alleged offence. Nothing incriminating has been recovered from the present applicant which shows non complexity of the present applicant. No statement of person from whom the alleged shop, where the incriminating mobile was allegedly sold by the accused Nos. 1 and 2 is traced out by the investigation authority. It casts serious doubt on the prosecution story making it highly improbable. The prosecution has failed to conduct the test identification parade of the accused and which is vital element in such cases. Therefore, there is no evidence substantiating the applicant incarceration. There is no material to connect the present applicant with the alleged crime. There is no material showing pre-meeting of mind or an agreement with conspirator to arraign the present applicant in the crime constituting dacoity. The applicant has not named in the FIR and will falsely implicated in the present case based on suspicion and surmise and based on the statement of the co-accused. Nothing cogent and reliable material on record to implicate the present applicant in the instant case. No specific role attributed in the FIR and otherwise against the present applicant and he has been apprehended based on the general and omnibus allegations. The

alleged recovery of cash and weapon has already been accomplished and nothing is recoverable from the present applicant. The present applicant is having clear and unblemished antecedent and was never booked or prosecuted previously. He has assisted police authority in every respect. The question of tampering the prosecution evidence does not arise. Hence the custody of the present applicant is not needed for the purpose of investigation as there is nothing to be recovered or discovered. There is reasonable ground for believing that he is not guilty of any offences levelled against him and has not committed any offence, much less an offence p/u/s 310(2) of BNS. The alleged recoveries have been accomplished and all the accused have been arrested and applicant is languishing in jail since long time and trial may get delay. The applicant is ready and willing to help the investigation. No purpose would be served by putting the them behind the bar. On the contrary, their freedom will be curtailed. There is nothing to be recovered form the applicants hence custody of applicant is not required for the purpose of recovery or any discovery. He will not leave India or territorial jurisdiction of this court without the prior permission. The applicant is permanent r/o Kumbhar galli, Daund and doing labour work. He is only earning member in his family. He is having deep roots in the society ,hence question of his absconding and fleeing from justice does not arise. He is ready

and willing to furnish surety and abide by all the conditions if imposed. Hence he be released on bail.

5] Learned APP argued that, the alleged offence is serious in nature. The informant has identified the accused during identification parade. Therefore, his involvement in the alleged crime is *pima facie* made out. The accused persons have robbed cash amount Rs.56,000/- from the informant but only Rs.4,000/- are recovered. Therefore, the recovery of stolen property is yet not completed. If the applicant is released on bail, possibility of his absconding and pressurising the informant and witnesses cannot be ruled out. Hence application be rejected.

6] Perused record. The alleged offence u/s 310(2) of BNS is punishable with imprisonment for life or with rigorous imprisonment for a term which may extend to 10 years, and shall also liable to fine. The present applicant is habitual offender. CR No. 690/2024 for the offence p/u/s 309(4), 3(5) of BNS is registered against the applicant. The accused Aniket Raju Labade has disclosed the name of all accused persons including the present applicant also. The charge-sheet shows that identification parade of the present applicant is conducted on 07.02.2024. The identification parade panchanama shows that the informant has identified the present applicant. The part of stolen property is recovered from the co-accused persons and their instances. The mobile phone of the informant is already

seized which was sold by the co-accused to the mobile shop owner. The statement of witness Istkar Shah shows that he has purchased the mobile phone of informant from Krishna Mobile Shoppe and the shop owner had stated him that two boys had sold that mobile and they will submit its receipt within 4-5 days thereafter the shop owner had called him at the shop where police had informed him that the mobile is stolen property. The statement of witness Krishna Pansare shows that he is mobile shop owner, he has purchased informant's mobile from accused Nos. 1 and 2, he had purchased that mobile for Rs.4,500/- and sold it to witness Istkar Irshad for Rs.5,000/- thereafter police had came at his shop for enquiry therefore he had called witness Istkar Irshad who had submitted that mobile to the police. Accordingly, there is ample evidence available on record against the accused persons which shows their involvement in the alleged crime. The applicant is habitual offender. If he will be released on bail, possibility of commission of the similar offence at his hands cannot be ruled out. In these circumstances it will not be just and proper to release him on bail. Hence, I pass the following order.

ORDER

Application Exh. 14 is rejected.

(S.S. Saste)
Additional Sessions Judge,
Baramati.

Date : 01.07.2025

CERTIFICATE

I affirm that the contents of this P.D.F file judgment are same word for word as per original judgment.

Name of Steno : Smt.S.V. Hirve Steno- Grade-I,

Name of Court : Smt.S.S. Saste
ASJ, Baramati.

Order/ Judgment on Date : 01.07.2025

Order/Judgment signed by PO on:- 02.07.2025

Order uploaded on : 02.07.2025