

MHPU140030492022.



SESSIONS CASE NO. 193/2022.

State of Maharashtra

Vs.

Pravin Shahaji Pawar

ORDER BELOW EXH.2

This regular bail application has been filed by the applicant-accused under Section 439 of the Code of Criminal Procedure in connection with Crime No. 551/2021 registered for the offence punishable under sections 395 and 397 of the Indian Penal Code at Daund Police Station.

2] The prosecution case in nutshell is as under :-

On 16.10.2021 the informant lodged report that on the previous night at about 10.30 p.m. he along with his family members slept after locking the door of the house from inside. He had kept the light on. He had also locked the safety door and the shutter. In the midnight at about 3.30 a.m. he felt that somebody has sat on his person. Therefore, he woke up. Suddenly, the person who had on his person assaulted on his face with iron rod. As a result, he sustained injuries on his lips. One of his tooth broke. He was frightened, therefore he told those person to take away whatever they want but don't assault. He noticed that there were another four unknown persons in his room. One was standing near a shutter. All those were holding weapons like iron rod, knife and *Katavani*. They all broke open the cupboard, took out cash amount of Rs. 45,000/- and gold ornaments from the person of his wife. All those persons were from the age group of 22

to 30 years. They were speaking Hindi and Marathi language. While committing the offence one of the person had spoken in Hindi to give all the articles and to tell the places where it is kept. He also abused them. The other one who was standing near bed, threatened small children to assault with the iron rod. They also took the silver ornaments from the room. Thereafter, they left his house by latching the door from outside. After getting confirmed that those persons were out, he raised alarm, consequently his neighbours rushed. Hence, the report.

3] The applicant-accused contended that he is innocent. He did not commit any offence. He has falsely been implicated in the said crime. There is no evidence against him. He has been implicated only because he belongs to *Pardhi* community. The informant is a Police Naik therefore, there will be no weightage from the Test Identification parade. His name has not been mentioned in the F.I.R. He has been arrested after nine months of registration of the crime. No incriminating articles have been recovered at his instance. No specific role has been attributed against him. Investigation is completed. The stolen articles have also been seized. He is the sole earning member of his family. There are no criminal antecedents against. The ingredients of section 395 of the Indian Penal Code have not been made out. He is permanent resident of the address mentioned in the title column of the application. He is ready to abide by the conditions imposed upon him. Hence, prayed to allow the application.

4] The Investigating Officer and Ld. A.P.P. has filed his say at Exh. 4 and resisted the application. It is submitted that the offence is serious one. During the custodial interrogation of accused No. 2 the gold studs have been seized. The Test Identification Parade of the accused persons have not been conducted yet. Further, co-accused No. 3 to 5 are yet to be arrested. If released on bail, applicant-accused may commit similar type of offences, tamper prosecution evidence or may flee away. Hence, prayed for rejection of application.

5] Heard learned Advocate Mr. B. M. Zagade for the applicant-accused and learned A.P.P. for the State. It is pertinent to note that the F.I.R. has been registered against five unknown persons. Similarly, there were same incidents in some other houses too. The statements of the witness have been recorded. During custodial interrogation present applicant-accused had given memorandum statement and had shown the houses where they have committed the dacoities. Further, some gold earrings i.e. studs and silver anklets have been seized during custodial interrogation of co-accused Kiran Kale. Further, the Investigating Officer has sought for the permission for conducting Test Identification Parade and it was so granted on 01.07.2022 but still the report has not filed on record.

6] Further, the name and addresses of the absconding accused have already been revealed to the Investigating Officer. The say of the Investigating Officer is

silent as regard to the criminal antecedents of the present applicant-accused. Furthermore, no fruitful purpose will be served by keeping the accused behind the bars. As such considering the facts and circumstances, the application deserves to be allowed with conditions. Hence, the order.

ORDER

1. This bail application is hereby allowed.
2. Applicant-accused namely Pravin Shahaji Pawar be released on bail on his executing P. R. Bond of Rs.25,000/- with a surety in like amount only in this Crime No. 551/2021 registered for the offence punishable under sections 395 and 397 of the Indian Penal Code at Daund Police Station, on the following conditions :-
 - A) He shall not tamper with prosecution evidence in any manner.
 - B) He shall not leave India without prior permission of the Court.
 - C) He shall attend the concerned Police Station as and when called by the Investigating Officer .
 - D) He shall not contact with the informant or any person related to him or prosecution witnesses by any means till completion of recording of evidence.
3. If he disobeyed any of the above conditions, the prosecution is at liberty to move the Court for cancellation of bail.

Date :- 17.11.2022.

(J. P. Darekar)
Additional Sessions Judge,
Baramati.

CERTIFICATE

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

Name of Stenographer : I. E. Deshmukh
Stenographer (G-1)

Court Name : J.P. Darekar
Additional Sessions Judge,
Baramati, Dist. Pune.

Date of Order : 17.11.2022

Order signed by
Presiding Officer : 17.11.2022

Order uploaded on : 18.11.2022