

MHRG170002632020



**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, PANVEL-
RAIGAD, AT : PANVEL
ORDER BELOW EXHIBIT 17 AND 19
IN SESSIONS CASE NO.17/2020
(Dated 15/12/2022)**

1. The applicant/accused **Ashutosh Bharat Koli** and **Paresh Nathuram Koli** have filed the present applications u/sec.439 of Cr.P.C.for grant of bail in C.R.No.I 110/2019 registered with Nhava Sheva Police station u/sec.394, 397, 342 r.w.34 of IPC for the third time after filing of charge-sheet as the earlier application were rejected when the investigation was in progress.

2. Heard Ld.Adv.for the applicants who submitted that, applicant came to be arrested on 06/10/2019 alongwith other co-accused persons with allegations that, on 05/10/2019 the accused persons in furtherance of their common intention looted the complainant Manirul Shaikh by snatching the sarees which he was selling and the cash of Rs.1,700/- from him. It is further alleged that accused persons also assaulted him by knife and bamboo sticks and thereafter restrained his movements by tying him with ropes and locked him in one room. Ld.Adv. submitted that, the applicants are arrested under suspicion and during investigation, 6 sarees and one nylon rope were

recovered from him under the memorandum panchanama. Ld.Adv. submitted that, the investigation is over and charge-sheet has been filed in this matter. Ld.Adv.submitted that, the applicant has no other criminal antecedent to his discredit. Ld.Adv. submitted that, permanent resident at the given address and he is ready to abide all the conditions that may be imposed by this court. Ld.Adv.submitted that filing of charge-sheet be taken as new ground for consideration of bail.

3. Ld.APP on the basis of the report submitted by the concerned police station, submitted that the applicant and other co-accused persons assaulted and threatened the complainant and also assaulted him by knife and sticks and looted him. Ld.APP submitted that, the complainant is a poor vendor who is earning his livelihood by selling sarees at door to door and he was hospitalised for the injuries. Ld.APP submitted that stolen articles were recovered from the applicants which shows their involvement in the crime. Ld.APP.submitted that, the injured had identified the accused in the matter. Ld. APP also pointed out that, accused Paresh Koli has criminal antecedents and there is possibility of tampering of prosecution witnesses. Paresh Koli committed the crime when he was declared as tadipar.

4. Upon hearing the Ld.Advocate and and after going through the charge-sheet, there appears the involvement of the applicants in the matter as the applicants had looted a daily

bread earner who was selling sarees door to door. The charge-sheet also shows the recovery of the 6 sarees and nylon rope under discovery memorandum of the present applicants which rope was used by the culprit to restrain the movements of the complainant. It is also to be noted that present applicants were grabbed by the police agency from the spot immediately after the occurrence of incident when the culprits allowed the complainant to leave the premises.

5. Filing of charge-sheet does not give the ground as a change in circumstances in the present matter when there exist positive involvement of the applicants in commission of crime. Hence, applicants cannot be enlarged on bail. Hence, order.

ORDER

Application Exh.17 and 19 are rejected.

Panvel

(Jairaj D.Wadne)

Dated :-15/12/2022

Addl. Sessions Judge, Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

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| Name of the stenographer | : S.J.Sheth |
| Name of the Court | : Additional Sessions Judge, Panvel Raigad |
| Date of dictation | : 15/12/2022 |
| Order signed by the P.O.on | : 15/12/2022 |
| Order uploaded on | : 19/12/2022 |