



Cri. Bail Application No. 1207/2022

Chandan Nagar Modi Vs.

State of Maharashtra Daund PS

CNR No. MHPU140035192022

ORDER (BELOW EXH.1)

(passed on 13th October, 2022)

This is the first regular bail application filed by the Applicant / accused Somra Nagar Modi under Section 439 of the Code of Criminal Procedure in connection with Crime No.307/2022 registered at Daund Police Station for the offences punishable under Sections 395 of the Indian Penal Code.

2. Total six accused out of them one is applicant/accused Somra Nagar Modi, two others and three others are juvenile in conflict are under arrest in connection with the offence punishable under Section 395 of the Indian Penal Code registered with Police Station Daund vide Crime No.307/2022 and subsequently he remanded to MCR.

3. In short, it is the case of prosecution that six unknown accused entered in the house of first informant and one of them deter him with knife and told him “पैसे निकालो.” At the same time first informant shouted loudly, after receiving his voice / shouting, the neighbourer of first informant came there, however at that time all six persons taken one mobile from first informant and they ran away from the back door of first informant's house and accordingly FIR is lodged against six unknown persons. The applicant/accused submitted that he has not committed any offence and FIR is lodged against unknown persons. Name of the present applicant/accused is not mentioned in the FIR. Moreover, primary investigation of this crime has been completed and there is no necessity to keep the applicant/accused behind bar. The

applicant/accused submit that there is no recovery or discovery from him. Moreover, he is permanent resident of the address mentioned above, and if he released on bail, he is ready to abide by all the conditions if any imposed by this court and looking the above facts he prayed for releasing the Applicant/accused on bail.

4. On the other hand, the Investigating Officer and learned APP for State has filed their reply below Exh.5 and submitted that, during the investigation the police has arrested in all six persons including applicant/accused. Out of six persons three are juvenile in conflict and they are referred to juvenile Board while during investigation police has seized one mobile handset, which is the stolen property of this crime as mentioned in the report lodged by first informant from applicant/accused and one knife. According to Investigating Officer in all 30 mobile handsets have been seized from accused including juvenile in conflicts and further investigation is well in progress and lastly looking the serious nature of offence coupled with the active involvement of accused in the commission of this crime, learned APP prayed for rejection of this bail application.

5. Perused the application and reply filed by Investigating officer and also perused the police papers. Heard both the sides at length.

6. On perusal of record it reveals to me on the basis of report lodged by first informant Sunil Ganpat Jachak, PSO of Police Station Daund has registered the offence against the unknown persons for an offence punishable under Section 395 of the Indian Penal Code and during investigation police has seized one mobile handset of this crime alongwith other mobiles and other things

from all accused persons and investigation of this crime is well in progress.

7. Here, considering the above facts and circumstances available on record, which shows that since the mobile handset involved in this crime is already seized from the accused persons, *prima-facie* they have committed the alleged offence. It is to be noted here that after completion of investigation the police has already filed charge-sheet against applicant alongwith other co-accused as per RCC No.606/2022 before concerned court and this fact is clearly goes to show that nothing remains to investigate the offence in this crime. Moreover, it is to be noted here that co-accused of this crime i.e. Chandan Nagar Modi and Aakash Dilipkumar Modi are already released on bail as per the order passed by this court in Criminal Bail Application No.1165/2022 and 938/2022 on 04/10/2022.

8. Admittedly applicant/accused is the resident of state of Zarkhand, however, as the applicant/accused is the resident of out of state cannot be ground to reject the application of bail. So far as the apprehension on the part of Investigating officer that applicant/accused will tamper the prosecution witnesses and fleeing away from the trial if released on bail, it can be taken care by imposing certain stringent conditions. With these words, following order is passed :

ORDER

1. Bail Application No. 1207/2022 is allowed.
2. Applicant/accused Somra Nagar Modi shall be released on bail in connection with Crime No.307/2022 registered at Daund Police Station for the offences punishable under Section 395 of the Indian Penal Code on execution of PR

and SB in the sum of Rs.15,000/- with solvent surety of the like amount.

3. **Besides the solvent surety Applicant/accused is also directed to deposit amount of cash security of Rs.10,000/- in the Court.**
4. Applicant / accused shall remain present before Court on each and every date during trial.
5. Applicant shall give declaration of place of his residence.
6. Applicant shall filed all record, the proof of residence – both present and permanent.
7. Applicant shall not tamper with the evidence or pressurize the first informant and witnesses in any manner whatsoever.
8. Applicant shall attend the Court regularly on every dates.
9. Applicant shall not leave jurisdiction of this Court without the prior permission of the Investigation Officer in writing.
10. If breach of the any of the above conditions committed, then Investigating Officer has liberty to move his application for cancellation of bail before concerned lower Court.
11. Bail before concerned lower Court.
12. Bail Application is accordingly disposed of.

Date : 13/10/2022

(R.K. Deshpande)
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 : Mrs. B.J. Khandre, steno (G-1)

Court Name : R.K. Deshpande
Additional Sessions Judge,
Baramati, Dist. Pune.

Date of Order : 13/10/2022

Order signed by
Presiding Officer : 13/10/2022

Order uploaded on : 13/10/2022