



Order below Exh.1 in Criminal Bail
Application No. 1255/2022.

1. This is an application preferred by applicant Manoj Kishor Gumbade for bail under section 439 of Cr.P.C. in C.R. No. I-252/2022 registered in Upnagar Police Station, Nashik for the offence punishable under sections 394, 397 r/w section 34 of the Indian Penal Code.

2. It is submitted by the accused that accused is resident of the address. FIR was registered against the unknown person. Accused has been apprehended on suspicion. There is delay in lodging FIR for which no justified reason has been stated. He has not committed the offence. Offence u/s. 397 has been added to aggravate the offence so as to decline bail. Nothing has to be recovered. He is ready to abide by the terms and conditions. Hence, prayed that application is granted.

3. Say was called of the investigating officer. He has objected this application on the count that, present accused alongwith co-accused obstructed the complainant and snatched the cash and mobile. Statement under Section 164 of the complainant is yet to be recorded. If accused released on bail he will threaten the witnesses. Co-accused is absconding. If accused released on bail he will not remain present for the trial. Charge-sheet is yet to be filed. Hence, prayed that application be rejected.

4. Heard Ld. APP and Ld. Advocate for accused. It is submitted by the Advocate for the accused that FIR has been lodged against unknown person. Already weapon has been recovered from Juvenile

offender. Nothing has to be recovered from the accused. Medical report is not filed on record to reflect that complainant sustained grievous hurt. Hence, prayed that bail be granted. On the other hand Ld. APP objected this application on the count that accused is resident of Uttar-Pradesh. Vital injury has been caused to the complainant on his back. Accused has been identified in the Identification Parade. Absconding accused is yet to be apprehended. Hence, prayed that application be rejected.

5. On considering the FIR it is seen that accused persons have snatched the mobile and cash of the complainant and was assaulted by knife. It is seen that already recovery has been made of mobile and some cash amount from accused Rohan Sharm. Medical certificate reflects that there is CLW on lower back with history of accident fall on metal sheet. It appears that he was not admitted in the hospital and complaint was lodged on the next day on 28/09/2022. Doctor has not opined whether the nature of injury is grievous or simple. Complainant while stating the history of assault does not state that he has been assaulted but it reflects that he fallen on metal sheet. Considering the above facts it is seen that sum of Rs.760/- was recovered from the present accused. Weapon has been recovered from Juvenile offender. Accused is in jail since 30/09/2022. Trial will take time. Merely because co-accused has to be apprehend is no ground to detain the present accused. Bail is rule. Presence of the accused can be secured. Apprehension of the I.O can be taken care by imposing stringent conditions. Hence, I pass following order :-

ORDER

1. The application is allowed.
2. The applicant/accused Manoj Kishor Gumbade involved in C.R.No. I-252/2022 registered in Upnagar Police Station, Nashik for the offence punishable under section 394, 397 r/w section 34 of the Indian Penal Code, be released on bail on his executing P.R. and

S.B. of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties of like amount.

3. Accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such fact to the Court or Police Officer.
4. The accused shall mark his presence in Upnagar Police Station on every Monday and Friday from 11.00 a.m. to 1.00 p.m. till filing of the charge-sheet and to co-operate investigating Officer.
5. The accused shall not commit similar type of offence.
6. The accused shall furnish his address proof, photo identity and mobile number of self and his two close relatives. In case of change of address he shall inform the I.O. about the same.
7. In case of breach of the conditions, the respondent is at liberty to apply for cancellation of bail.
8. Bail before trial Court.

Sd/-xxx

Nashik.
Date : 19/10/2022.

(V.S.Malkalpatte-Reddy)
Additional Sessions Judge,
Nashik.