

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 2136 OF 2015.

(1) SANJAY S/O SAHEBRAO SHINDE.	}	<u>APPLICANTS.</u>
(2) RAVINDRA PRALHAD PATIL.		
(3) YOGESH HIRAMAN JADHAV.		

VERSUS.

THE STATE OF MAHARASHTRA.

RESPONDENT.

Appearance =>

Mr. Balbhim R. Kedar, Advocate for the Applicants.

Mrs. S.G. Chincholkar, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 15th June, 2015.

Per Court :-

Present Criminal Application is filed by the Applicants for grant of regular bail in connection with CR No. I 2/2015 registered with Police Station, Wadod-Bazar, Taluka – Phulambri, District – Aurangabad, for the offences punishable under Section/s 395 of the Indian Penal Code. (Sessions Case No.79 Of 2015 pending on the file of the learned Sessions Judge, Aurangabad.)

[2] Heard Mr. Balbhim R. Kedar, learned counsel for the Applicants and Mrs. S.G. Chincholkar, learned Additional Public Prosecutor for the State.

[3] Mr. Balbhim R. Kedar, learned counsel upon instructions from Pralhad Patil (father of Applicant No.2 – Ravindra Patil), seeks permission to withdraw the present Application. Permission is granted. Criminal Application is hereby is dismissed as withdrawn as against Applicant No.2 – Ravindra Pralhad Patil

[4] Investigating agency has already completed the entire investigation. Charge sheet is already filed. First Information Report is lodged by Akbar Khan Salabat Khan, who is driver. He was taking his truck towards Vaijapur from Sillod. At that time he was having cash amount of Rs.4,39,600/- with him.

According to the First Information Report, in the night time, near village Pathri, one Scorpio jeep came near his truck and parked said vehicle in front of his truck. From the said vehicle, seven persons alighted and they barged into the cabin of the truck and took away cash amount and mobile phone.

[5] The learned Additional Public Prosecutor pointed out that identification parade was conducted during the course of investigation and in the said, First Informant has identified Applicant No.3 – Yogesh Hiranman Jadhav. As per the memorandum statement given by Yogesh, mobile phone owned by first informant is recovered.

[6] In view of the said fact that Applicant No.3 – Yogesh is identified in the identification parade, his application is to be rejected. Accordingly, Criminal Application filed by Applicant No.3 - Yogesh Hiranman Jadhav is rejected.

[7] In so far as application filed by Applicant No.1 – Sanjay Sahebrao Shinde is concerned, the only incriminating material is his memorandum statement, recorded under Section 27 of the Indian Evidence Act by which, amount of Rs.65,000/- at his instance, has been recovered, from his house. From the recovery panchnama, it is clear that said house is not in his exclusive possession. In that view of the matter, said material is not sufficient to continue his presence in the jail.

The learned trial court rejected his application on the ground that, he is resident of Jalgaon and, therefore, there is every possibility that he will not be available to the course of justice. Such apprehension on the part of the prosecution can be taken care of by imposing stringent conditions that leads me to pass the following order :-

ORDER

(1) Criminal Application is partly allowed, as under :-

(i) Criminal Application No.2136/15 in respect of Applicant No.2 – Ravindra Pralhad Patil is dismissed as withdrawn.

(ii) Criminal Application filed by Applicant No.3 – Yogesh Hiranjan Jadhav is hereby rejected.

(iii) Applicant No.1 – Sanjay Sahebrao Shinde shall be released on regular bail on he executing P.R. Bond of Rs. 15,000/- [Rs. Fifteen Thousand.] with one solvent surety in the like amount, in connection with CR No. I 2/2015 registered with Police Station, Wadod-Bazar, Taluka – Phulambri, District – Aurangabad, for the offences punishable under Section/s 395

of the Indian Penal Code. (Sessions Case No.79 Of 2015 pending on the file of the learned Sessions Judge, Aurangabad.)

(iv) Bail before trial court.

(v) Applicant No.1 – Sanjay Sahebrao Shinde shall attend Police Station, Wadod-Bazar, Taluka – Phulambri, District – Aurangabad once in a fortnight, preferably on Sunday and shall remain present in said Police Station between 3.00 to 5.00 p.m., till charge is framed.

(vi) Two successive absence of Applicant No.1 – Sanjay Sahebrao Shinde in the said Police Station, will give rise to the cause to the Investigating Officer to file application for cancellation of bail.

(iv) With this Criminal Application is partly allowed and same is disposed of accordingly.

(V.M. DESHPANDE, J.)