

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2146 OF 2015**[Pramod s/o Prakash Jagtap and others Vs The State of Maharashtra]**

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or
directions and
Registrar's orders

Court's or Judge's orders

Shri B.R.Kedar, advocate for applicants
Smt. S.G.Chincholkar, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.**DATED : 22nd June, 2015****PER COURT :-**

1] The present application is for bail, since the applicants are arrested in connection with Crime No. 2 of 2015, registered with police Wadod-Bazar, for the offence punishable under Section 395 of the Indian Penal Code.

2] The said crime is registered against the present applicants and others. The first information report was lodged against seven unknown persons by the first informant Akbar Khan Salabat Khan. According to the first information report, at the date and time of the incident i.e. on 1.1.2015 near village Pathri the truck of the first informant was intercepted by Scorpio jeep and seven persons alighted from the same and they barged into cabin of the truck and took away cash and mobile phone.

3] Learned counsel Shri Kedar for the applicants submitted that the only incriminating material against the present applicants is their statement recorded under Section 27 of the Evidence Act leading to the recovery of certain cash amount.

4] Learned Additional Public Prosecutor also submitted that except the memorandum statement and recovery of certain amount there is no other incriminating material against the applicants. Learned Additional Public Prosecutor has stated that during the identification parade the present applicants were not identified by the first informant. Thus, the only incriminating material against the applicants is their statements under Section 27 and recovery consequent thereto.

5] The memorandum statements of applicant nos. 1 and 3 would show that the recovery of Rs.60,000/- is shown to have been made from their respective houses. The respective panchanamas show that the house was not in their exclusive possession. Therefore, prima facie only on the basis of such evidence, the liberty of the present applicants cannot be curtailed, especially when the charge sheet is already filed. Hence, applicant nos. 1 and 3 are entitled to be released on bail.

6] So far as applicant no.2-Ravi is concerned, his statement, which is admissible under Section 27 of the Evidence Act, would reveal that he kept the amount in the house of his maternal uncle Bhimrao. The case diary of 12.1.2015, the day on which the memorandum statement of applicant no.2-Ravi was recorded, shows the mention of Bhimrao.

7] Learned Additional Public Prosecutor has pointed out that the statement of Bhimrao is recorded and Bhimrao has stated that applicant-Ravi has kept the amount of Rs.10,000/- in his house. In that view of the matter, there is material against applicant no.2-Ravi. Hence, his application is rejected. That leads me to pass the following order.

ORDER

- (i) Application of applicant no.1-Pramod and applicant no.3-Mahendra is allowed.
- (ii) Applicants no.1-Pramod and no.3-Mahendra be released on regular bail on they each executing P.R. bond of Rs. 15,000/- with one solvent surety in the like amount by each of them, in connection with Crime No. 2 of 2015, registered with police Wadod-Bazar, for the offence punishable under Section 395 of the Indian Penal Code.
- (iii) Bail before trial court.
- (iv) The applicants no.1-Pramod and no.3-Mahendra shall attend the police station once a fortnight preferably on Saturday, and they shall remain present in the police station in between 3.00 p.m. to 5.00 p.m. till the charge is framed.
- (v) Two successive absence on the part of applicant nos. 1 and 3 at the police station will give cause to the investigating officer to file application for cancellation of bail.
- (vi) Application of applicant no.2-Ravi is hereby rejected.
- (vii) The application is accordingly disposed of.

(V.M.DESHPANDE, J.)

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