

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

CRIMINAL APPLICATION NO. 3388 OF 2015.

AMARSING S/O MATALUSING.

VERSUS

THE STATE OF MAHARASHTRA

Appearance =>

Mr. Shaikh Kayyum Najir, Advocate for the Applicant.

Mr. A.S. Shinde, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 14th July, 2015.

Per Court :-

Present Criminal Application is filed by the Applicant for grant of regular bail in connection with CR No.I 33/2014 registered with Police Station, M.I.D.C., CIDCO, Aurangabad, District – Aurangabad, for the offences punishable under Section/s. 394, 395 read with 34 of the Indian Penal Code.

[2] Heard Mr. Shaikh Kayyum Najir, learned counsel for the Applicant and Mr. A.S. Shinde, learned Additional Public Prosecutor for the State.

[3] The Applicant is arrested on 5th April, 2014 and since then he is in jail. Investigating agency has already completed the entire investigation and filed the charge sheet in the court of law.

[4] The First Information Report is lodged by Dnyaneshwar Vitthal Rudbude on 23rd February, 2014. First Information Report was lodged against the unknown persons. According to the First Informant when he alongwith his friend were proceedings on their two wheeler motorcycle, four persons accosted them and they snatched away Rs.4500/-, Bajaj discover motorcycle bearing registration MH/20/BZ/3521 and also mobile handset.

[5] According to the prosecution case, the incriminating material against present Applicant is that at his behest, under the statement recorded during his police custody remand under section 27 of the Indian Evidence Act, knife was recovered from his room. It is not case of the prosecution that, any looted muddemal is recovered from the present Applicant. On the contrary, Bajaj discover motorcycle is recovered at the behest of co accused Amol Balasaheb Jadhav, who is already released on bail, by this court.

[6] Application for bail of the present Applicant is rejected by the learned trial court only on the ground that, he is resident of Uttarpradesh.

[7] In view of the fact that person from whom muddemal is recovered is already released on bail and there is no other recovery except the knife from the present Applicant, personal liberty of present Applicant cannot be curtailed only on the ground that he belongs to different State. Apprehension of the prosecution that he will not be available to the course of justice, can be secured by directing the Applicant to furnish the local sureties. That leads me to

pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant - AMARSING S/O MATALUSING shall be released on regular bail on he executing P.R. Bond of Rs. 30,000/- [Rs. Thirty Thousand.] with two solvent sureties in the like amount, in connection with CR No.I 33/2014 registered with Police Station, M.I.D.C., CIDCO, Aurangabad, District – Aurangabad, for the offences punishable under Section/s. 394, 395 read with 34 of the Indian Penal Code.
- (iii) Bail before trial court.
- (iv) it is made clear that, sureties shall be local, to the satisfaction of the learned trial court.
- (v) With this Criminal Application is allowed and same is disposed of, accordingly.

(V.M. DESHPANDE, J.)