

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

CRIMINAL APPLICATION NO. 5781 OF 2015

Nilesh Madhukar Kedar,
Age: 19 years, Occu: Service,
R/o. Ghodegaon, Tal. Newasa,
Dist. Ahmednagar.

... Applicant

VERSUS

State of Maharashtra.

... Respondent

.....
Mr Sandip R. Andhale, Advocate for the applicant
Mr S. M. Ganachari, APP for respondent/State
.....

CORAM : **INDIRA K. JAIN, J.**
DATE : **23RD NOVEMBER, 2015.**

PER COURT:

. Applicant is involved in Crime No. I-227/2015 registered at MIDC Police Station, Dist. Ahmednagar for the offences punishable under Sections 395, 397, 427 of Indian Penal Code and Section 4/25 of the Arms Act.

2. Heard Mr Andhale, learned Counsel for applicant and Mr S. M. Ganachari, learned APP for respondent/State.

3. According to the prosecution on 12th September, 2015 one Allauddin Sardar Shaikh lodged a report alleging therein that on 10th September, 2015 at around 22:00 hrs. applicant with co-accused

entered his Hotel Sangram on Ahmednagar – Aurangabad road at village Khospuri Shivar. They were armed with sword, iron pipe and sickle and abused the employees of the hotel and customers, who were present. It is alleged that applicant and other co-accused assaulted the informant, employees and customers with the said weapons and snatched away cash of Rs. 1500/- from the cash box.

4. The learned Counsel for the applicant vehemently submits that remaining three accused have been enlarged on bail and applicant claims his enlargement on bail on the ground of parity.

5. Another contention raised on behalf of the applicant is that the custodial interrogation of applicant is not necessary. Though applicant and other co-accused were arrested on the same day, test identification parade was not held and the identity of the applicant had not been ascertained. He submits that, there is material against the applicant and on those grounds too, applicant is entitled for bail.

6. On perusal of the order in Cri. Misc. Application No. 1449 of 2015 passed by the learned Additional Sessions Judge, Ahmednagar it is apparent that the role attributed to co-accused Shubham Vishnu Jadhav and the present applicant is identical.

Prosecution has alleged that applicant is habitual offender and in case he is released on bail there is every possibility of his indulging in similar type of activity. The same averments were made before the trial Court in respect of co-accused Shubham and Shubham was enlarged on bail vide order dt.5th November, 2015.

7. So far as merits are concerned no test identification parade has been held so far and custodial interrogation of applicant is not necessary. Considering the nature of offences, role attributed to applicant, allegations in FIR and also on the rule of parity this Court is inclined to allow the application. Hence the following order.

ORDER

- (i) Criminal Application No. 5781 of 2015 is allowed.
- (ii) Applicant Nilesh Madhukar Kedar is released on bail on his furnishing P.R. and S.B. of Rs. 15,000/- (Rupees Fifteen Thousand only) each.
- (iii) He shall not tamper with the prosecution evidence and shall make himself available as and when required.

[**INDIRA K. JAIN, J.**]