

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

CRIMINAL APPLICATION NO.6213 OF 2015

Asif s/o Rauf Shaikh,
Age: 22 years, Occ: Business,
R/o. Sai Road, Latur,
Tq. & Dist. Latur.

...Applicant

versus

The State of Maharashtra,
through M.I.D.C. Police Station,
Tq. & Dist. Latur.

...Respondent

**WITH
CRIMINAL APPLICATION NO.6214 OF 2015**

Anand s/o Madhukar Ghadge,
Age: 36 years, Occ: Business,
R/o. Jawalgaon, Tq. Ambajogai,
District Beed.

...Applicant

versus

The State of Maharashtra,
through M.I.D.C. Police Station,
Tq. & Dist. Latur.

...Respondent

.....
Mr. T.M. Venjane, Advocate for applicant
Mr. A.P. Basarkar, A.P.P. for respondent
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CORAM : N.W. SAMBRE, J.

DATE : 18th DECEMBER, 2015

ORAL ORDER :

The applicants are seeking regular bail, in connection with the Crime No. 172/2015 registered at MIDC Police Station, District Latur, for the offence punishable under Sections 364-A, 120-B read with Section 34 of the Indian Penal Code.

2. The investigation in the matter is already complete and the chargesheet is filed.

3. It is the case of the applicants that they were arrested on the second day of the incident as it is claimed by the prosecution that they ran away from the place of the incident.

4. According to the learned Counsel for the applicants, in view of absence of demand, provisions of Section 364-A of Indian Penal Code will not be attracted and it is Section 365 of Indian Penal Code, under which the applicants are required to be prosecuted, particularly, when two other accused were arrested on the spot.

5. Learned A.P.P. submits that, there are eye witnesses to the incident and two of the co-accused were caught red handed on the spot alongwith the vehicle. According to him, in view of prima facie evidence is available against the applicants, the applications are liable to be rejected.

6. Having bestowed my thoughts to the submissions made, the investigation in the matter is already complete. The alleged incident is on 17/07/2015 and the applicants were arrested on 18/07/2015. The F.I.R. speaks of likely demand, however, whether same can be considered as a qualifying circumstance under Section 364-A or 365 of Indian Penal Code is a issue which is required to be

dealt with during the trial. Prima facie, it appears that, during identification period, accused were not identified.

7. Apart from above, it is to be noted that, if offence is considered to be punishable under Section 365 of Indian Penal Code, punishment provided is that of 7 years. In view of the fact that, investigation in the matter is already complete, further detention of the applicants is of no use.

8. In view of above, in my opinion, it will be appropriate, to order the release of the applicants on bail. Hence, I pass following order.

The applicants be released on bail, in connection with Crime No. 172/2015 registered at MIDC Police Station, District Latur, for the offence punishable under Sections 364-A, 120-B read with Section 34 of the Indian Penal Code, upon furnishing P.R. bond of Rs.25,000/- with one surety in the like amount, by each of them.

9. Criminal Applications stand allowed in above terms.

[N.W. SAMBRE, J.]