

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

CRIMINAL APPLICATION NO.685 OF 2016

1. Dnyanoba Dattatraya Jadhav,
Age 26 years, Occu. Labour,
R/o Methi, Taluka Ahmedpur,
District Latur
 2. Madhav Vidyasagar Shirse,
Age 25 years, Occu. Labour,
R/o Patoda, Taluka Jalkot,
District Latur
- ..Applicants

Versus

- . The State of Maharashtra,
Through the Investigating Officer,
Crime No.157 of 2015, registered
with Police Station, Ahmednagar,
District Latur
- ..Respondent

Mr Milind Patil, Advocate for applicants
Mr A.S. Shinde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 23rd February 2016

PER COURT

Heard.

2. The applicants are seeking regular bail in Crime No.157 of 2015 registered on 16th July 2015 at Police Station, Ahmedpur, District Latur, for the offence punishable under Section 409 read with Sec.34 of Indian Penal Code. The applicants were arrested on 17th July 2015.
3. The prosecution story against the applicants is that the applicants were employed by a company namely M.I.S. Procedure Holdings Private Ltd., and the team was headed by one Bipinkumar Sharma.

4. It is the case of the prosecution that both the applicants, along with other two accused namely Sangram More and Satish Gaimukhe were duty bound to load cash in ATM. Instead of loading the cash in the machine, the applicants have tampered with the CCTV footage of said machine and amount to the tune of Rs.39,70,000/- found to be missing. The CCTV footage of the said ATM depicts that all the accused persons including the present applicants have committed the crime in question.

5. The investigation in the matter is complete and charge-sheet is already filed. In the above background, learned Counsel for the applicants submits that further detention of the applicants is not necessary. He would urge that the accused Sangram More and Satish Gaimukhe are the main culprits in the matter, who were knowing the code number of the ATM, so as to load the cash. According to them, after noticed that cash was missing from the ATM, same was accounted for during investigation and found that both the accused persons were responsible for the crime in question. Learned Counsel Mr Patil then would urge that the applicants being part of the team, were falsely implicated in the crime, though there is no specific role attributed to them nor anything is seized from them.

6. Learned A.P.P. strenuously opposed the application on the ground that the applicants are prima facie involved in the crime in question. According to him, in view of role played by the present applicants, offence under Section 409 read with sec.34 of Indian Penal Code is registered against them. He would then invited attention of this Court to the statement of Technical Engineer, Vitthal Kople, who

reported that the present applicant and other two accused were instrumental in withdrawing the cash and tamper with the instrument.

7. Perused the investigation papers. It is required to be noted that nothing was seized from the present applicants and the entire amount of Rs.39,70,000/- is accounted from the accounts of other two accused namely Sangram More and Satish Gaimukhe.

8. The applicants were employed by the complainant for some time and as such, they were required to be there. However, no specific role is attributed to the applicants as regards their active participation in the crime in question.

9. In this background, having regard to the fact that investigation in the matter is complete and charge-sheet is filed and there is no criminal history of the applicants, it will be appropriate, in my opinion to release the applicants on bail.

10. As such, Criminal Application stands allowed. The applicants be released on bail in Crime No.157 of 2015 registered on 16th July 2015 at Police Station, Ahmedpur, District Latur, for the offence punishable under Section 409 read with Sec.34 of Indian Penal Code, upon furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount, by each of them.

(N.W. SAMBRE, J.)

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