

(1)

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

CRIMINAL APPLICATION NO.964 OF 2016

Sanjay Nivrutti Shinde

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr D.K. Thote, Advocate for applicant;

Mr M.M. Nerlikar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 26th February, 2016

ORDER :

Leave to correct name of the applicant.

2. By the present application under section 439 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.I-2 of 2016, registered with Phulambri police station, Tq. Phulambri, Dist. Aurangabad, for offence punishable under section 399 of the Indian Penal Code.

3. The case of the prosecution is that the applicant was caught red-handed while carrying certain articles, with an intention to make preparation for committing dacoity at unguarded Indicom ATM at village Sawangi, along with co-accused.

(2)

4. While trying to make out a case for grant of bail, learned Counsel appearing on behalf of the applicant would submit that the applicant was apprehended from the spot on the very same day of the incident, i.e. 6th January, 2016. He would then urge that the other two accused persons, who had run away from the spot, were apprehended by police later on, however they are released on bail by learned Additional Sessions Judge, Aurangabad vide order dated 3rd February, 2016, passed in Bail Petition No.101 of 2016. He would then urge that the applicant is entitled for bail as his custodial interrogation is already over.

5. Learned Addl. Public Prosecutor opposed the application on the ground that other two accused, namely, Raju Bihari and Lala are still absconding. He would then urge that the applicant was apprehended from the spot of the incident along with material which was to be used for committing the offence of dacoity. He would then urge that the investigation is at preliminary stage. As such, the application be rejected.

6. It is required to be noted that there are no criminal antecedents against the present applicant. The applicant was subjected to custodial interrogation and the articles carried by him, with an intention to make preparation for committing dacoity, are already seized from his custody. Further, it is required to be noted that learned Additional Sessions Judge has already released two co-accused on bail on the ground that nothing was recovered from them. In my opinion, further detention of the applicant is not necessary.

(3)

7. In view of above, I pass the following order :-

The applicant be released on bail, in connection with C.R. No.I-2 of 2016, registered with Phulambri police station, Tq. Phulambri, Dist. Aurangabad, for offence punishable under section 399 of the Indian Penal Code, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall not enter the jurisdiction of Phulambri police station till filing of the charge-sheet.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj