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

CRIMINAL APPLICATION NO. 2053 OF 2016

Sunil s/o Fakkad Adsure,
Age: 20 years, Occu: Education,
R/o Shedala, Tq. Ashti,
Dist. Beed

..APPLICANT

VERSUS

The State of Maharashtra & anr.

..RESPONDENTS

Mr D. R. Jayabhar, Advocate for applicant;
Mr A. R. Kale, Addl. Public Prosecutor for respondents

CORAM : N.W. SAMBRE, J.

DATE : 27th April, 2016

ORAL ORDER :

Heard learned Counsel appearing on behalf of applicant and learned Additional Public Prosecutor.

2 The applicant is seeking his release on regular bail in Crime No. I-391 of 2015, registered with Kotwali Police Station, Dist. Ahmednagar, on 6th December, 2015, for offences punishable under Sections 394, 397 of the Indian Penal Code and under Sections 4/25 of the Arms Act, for the incident occurred between 5th and 6th December, 2015.

3. The prosecution story against present applicant is, complainant Satish Madhav Pawar was given lift by present applicant and was robbed of belongings including withdrawal of cash from the A.T.M. after threatening him.

(2)

4. So far as the crime in question is concerned, there are in all 3 accused out of which 2 are already released on bail.

5. While trying to make out a case for grant of regular bail, Mr Jayabhar, learned Counsel appearing on behalf of applicant would urge that there are no criminal antecedents but for present crime against the applicant, who is a student, aged about 20 years taking education in engineering Diploma.

6. The next submission of the learned Counsel appearing on behalf applicant is that the provisions under Section 394 of the Indian Penal Code cannot be made out, particularly having regard to the injury certificate as is placed on record. He would then urge that, as the investigation in the matter is completed and chargesheet is already filed, further detention of present applicant is of hardly any consequence.

7. Learned Additional Public Prosecutor opposed application on the ground that there is sufficient material including that of CCTV footage from A.T.M. centre from where present applicant has operated A.T.M. of the complainant and withdrawn money. He would then submit that applicant has actively participated in the crime in question as is apparent from the CCTV footage.

8. In this view of the matter, the ingredients of offence under Section 394 of the Indian Penal Code, in my opinion, at this stage could not be prima facie established for the purpose of grant of bail. Apart from above, it

(3)

is to be noted that there are no criminal antecedents against present applicant and investigation in the matter is already completed. As such, further detention of the applicant is of no consequence. The other accused in crime in question are already released on bail.

9. In the above background, in my opinion, it will be appropriate to order release of applicant on regular bail on following conditions :-

Applicant be released on regular bail, in connection with Crime No. I-391 of 2015, registered with Kotwali Police Station, Dist. Ahmednagar, for offences punishable under Sections 394, 397 of the Indian Penal Code and under Sections 4/25 of the Arms Act, upon furnishing P.R. Bond of Rs. 25,000/-, with one surety in the like amount.

If It is noticed that the applicant is involved in any other crime, the prosecution will be at liberty to move this Court for cancellation of his bail.

Applicant shall not tamper with the prosecution witnesses.

10. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

sjk