

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

**919 CRIMINAL APPLICATION NO. 4076 OF 2016
WITH
APPLN/4187/2016**

SAYED JUNED S/O SAYED SHAUKAT

VERSUS

THE STATE OF MAHARASHTRA

.....

Mr. A.S.Barlota, Advocate for Applicant.

Mrs. V.N.Patil (Jadhav), A.P.P. for Resp. – State.

.....

AND

TAYYAB KHAN S/O NASEEB KHAN

VERSUS

THE STATE OF MAHARASHTRA

.....

Mr. M.R.Jadhav, Advocate for Applicant.

Mrs. V.N.Patil (Jadhav), A.P.P. for Resp. – State.

.....

CORAM : A.M.BADAR, J.

DATE : 26th AUGUST, 2016

.....

PER COURT :

1. Applicant Sayed Juned s/o Sayed Shaukat and co-accused Tayyab Khan s/o Naseeb Khan in Crime No. 160/2016 registered at CIDCO police station, Aurangabad for the offences punishable U/ss 392,395 read with 34 of the Indian Penal Code by this application are praying for releasing them on bail after filing of charge sheet.

2. Heard learned counsel for both the applicants. He argued that the offence punishable u/s 395 of the Indian Penal Code is not made out as no criminal force as required by the penal section was used for robbing the amount as alleged by the prosecution. Learned counsel further argued that there is no *prima facie* evidence to connect the applicants to the crime in question and as necessary recovery is already effected, therefore, further pre-trial detention is not warranted. It was further argued that CC TV footage does not show that the applicant Sayed Juned was present and was covered by the CC TV footage.

3. Learned A.P.P. opposed the application by contending that CC TV footage shows that applicant Tayyab Khan was riding the motorcycle and had actively participated in the crime in question. He further argued that applicant Sayed Juned is the main accused, who had kept watch on the informant and his associates and CDR shows that he was constantly in touch with co-accused. Learned A.P.P. further argued that the amount robbed is recovered at the instance of both the applicants.

4. Perused charge sheet. F.I.R. came to be lodged by Shaikh Riyaz Shaikh Vajir. Crime is registered on the basis of this F.I.R. at 00.30 hrs. on 15/03/2016. The incident alleged occurred at 3.00 p.m. on 14/03/2016. According to the informant Shaikh Riyaz, he received payment of ₹ 11.72 Lakh towards the sale of cotton. He along with his friend Deorao Pund, after receipt of payment were proceeding towards Jalna road by motorcycle. Charge sheet reflects that both of them were suspicious about the watch kept on them. It is averred that at the vicinity of Rama International Hotel, another motorcycle came near their motorcycle and the pillion rider of that motorcycle caught hold the bag containing money and snatched it from Ramrao Pund. The informant averred that total 3 persons were riding on that motorcycle.

5. Perusal of papers of investigation goes to show that both applicants are identified by witness Deorao Pund. Amount of ₹ 52,000/- was recovered on the basis of the confessional statement of Sayed Juned, whereas as ₹ 3,90,000/- came to be recovered at the instance of applicant Tayyab Khan. The incident is day-light robbery at main locality of Aurangabad city. Which offence was committed by the applicants, will be the exercise which will have to be undertaken at the time of trial of accused on recording evidence. *Prima facie*, it is seen that in day-light robbery, huge amount came to be looted by the gang of dacoits and complicity of both the applicants is established in the crime in question.

6. Nature of crime and the circumstances in which it is committed, is relevant consideration for grant of bail. Considering the nature of crime and the circumstances in which it is committed, no case for bail is made out.

7. Hence, the present application for bail stands rejected.

[A.M.BADAR, J.]