

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

CRIMINAL APPLICATION NO. 4395 OF 2016

Balasaheb s/o. Kundlik Gitte .. Applicant
Age. 23 years, Occ. Education,
R/o. Chandarpur, Tq. Parli Vaijnath,
Dist. Beed.

Versus

The State of Maharashtra .. Respondent

Mr.T.M. Venjane, Advocate for the applicant.
Mr.S.P. Sonpawale, APP for respondent/State.

CORAM : A.M. BADAR,J.

DATED : 26.10.2016

P.C. :-

1. The applicant/accused in Crime No. 51 of 2015 registered with Kingaon Police Station, Tal. Ahmedpur, Dist. Latur, for offence punishable under sections 397, 395, 323, 504, 506, 341 of the Indian Penal Code and under sections 3,35 of the Arms Act, by this application, is seeking his release on bail after filing of the charge-sheet.

2. Heard learned Counsel for the applicant as well as learned A.P.P.

3. Learned A.P.P. opposed the application by contending that there is recovery of amount at the instance of present applicant. He further argued that considering the fact that this is case of highway decoity, the applicant is not entitled for bail.

4. Perused the charge-sheet. The F.I.R. of the crime is lodged by a cleaner of truck, named, Musa Gafar Pathan. According to the prosecution case, Wajid Shaikh - driver and Musa Gafar Pathan - cleaner were proceeding by truck towards Patoda village. Their truck was intercepted by a car and few persons alighted from the car. Those decoits assaulted driver Wajid Shaikh, took out an amount of Rs.15,000/- from him. They also assaulted informant - Musa Garaf Pathan and robbed him of Rs.3000/- as well as his cell phone of Micromax company.

5. Evidence available against the present applicant is recovery under section 27 of the Indian Evidence Act, on the basis of confessional statement of the present applicant. On 23.01.2015, an amount of Rs.2000/- was recovered from the house of the present applicant at his instance. Except this, there is nothing incriminating against present applicant, so as to infer his complicity in the crime in question.

6. Considering the nature of evidence available against the applicant, his pre-trial detention is not warranted. Hence, the order :-

O R D E R

- i) The application is allowed.
- ii) Applicant/accused – Balasaheb s/o. Kundlik Gitte Crime No.51 of 2015 registered with Kingaon Police Station, Tal. Ahmedpur, Dist. Latur, for offence punishable under sections 397, 395, 323, 504, 506, 341 of the Indian Penal Code and under sections 3,35 of the Arms Act, be released on bail on executing P.R.Bond of Rs. 25,000/- [Rupees Twenty Five Thousand] and on furnishing surety in the like amount.
- iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.
- iv) The applicant shall not tamper the evidence of the prosecution.
- v) The applicant to co-operate the trial Court in the expeditious disposal of trial against him.

[A.M. BADAR, J.]