

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

16 CRIMINAL APPLICATION NO. 4483 OF 2016

MUNWAR S/O MAINODDIN SHAIKH

VERSUS

THE STATE OF MAHARASHTRA

.....

Mr. R.O.Awasarmol, Advocate for Applicant.

Ms. P.V.Diggikar, A.P.P. for Resp. – State.

.....

CORAM : A.M.BADAR, J.

DATE : 29th AUGUST, 2016

.....

PER COURT :

1. Applicant/accused in Crime No. 75/2016 registered at Dhoki police station, Tq. and District Osmanabad for the offence punishable U/s 399 of the Indian Penal Code by this application is praying for pre-arrest bail.

2. Heard learned counsel for the applicant as well as learned A.P.P. Learned A.P.P. opposed the application by contending that the applicant had hired the vehicle which was used in commission of crime and CDR Collected by the Investigating Officer shows complicity of the applicant in the crime in question.

3. Perused papers of investigation. F.I.R. lodged by Police Head Constable Gajanan Khandoji Karhale shows that during patrolling, he found one 4 wheeler vehicle bearing No. MH-24/V-3105 parked at the T-point of Dhoki – Tadvala road. Interrogation of the driver reveals that he had left 4 persons at the broken bridge for committing robbery and after their call, he was to visit that spot for enabling the dacoits to flee from the spot. The patrolling team of police then raided that spot and apprehended co-accused Ram Sitaram Chaware and Shaikh Gaus Moinuddin from the spot. Those co-accused disclosed police that accused viz. Sadiq Qureshi along with one unknown accused flee from the spot. Subsequently, co-accused Sadiq Qureshi came to be apprehended and it is he who disclosed police the name of the 5th dacoit as Munwar Shaikh i.e. the present applicant.

4. Apart from this, perusal of the papers of investigation does not reflect any other evidence against the present applicant. CDR is not of the cell phone of the present applicant. Except statement of the co-accused, who was arrested subsequently, there is no other material to connect the applicant with the crime in question. F.I.R. as well as the papers of investigation shows that necessary recoveries are effected. Investigating Officer, for the reasons best known to him, has not recorded statement of the owner of vehicle allegedly used in the crime in question in order to infer complicity of the present applicant. In this view of the matter, custodial interrogation of the present applicant is not warranted and as such the following order.

(i) The application is allowed.

(ii) In the event of his arrest in Crime No. 75/2016 registered at Dhoki police station, Tq. and District Osmanabad for the offence punishable U/s 399 of the Indian Penal Code, applicant Munwar s/o Mainoddin Shaikh be released on bail on executing P.R. Bond of ₹ 5,000/- [Rupees 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 shall attend the concerned police station on 04/09/2016 in between 11.00 a.m. and 1.00 p.m. and thereafter as and when reasonably called by the Investigating Officer.

5. Criminal Application stands disposed of in the above terms.

[A.M.BADAR, J.]