

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

Criminal Application No. 4675 of 2016

District : Ahmednagar

Aindodi @ Nendudi s/o. Beat Chavan,
Age : 42 years,
Occupation : Labourer,
R/o. Burudgaon,
Taluka & Dist. : Ahmednagar. .. Applicant.

versus

The State of Maharashtra,
Through its Investigation Officer,
Kopargaon City Police Station,
Taluka : Kopargaon,
District : Ahmednagar. .. Respondent.

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Mr. N.B. Narwade, Advocate, for the applicant.

*Mr. S.M. Ganachari, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 8TH SEPTEMBER 2016

ORAL ORDER:

The applicant / accused in Crime No. I-207/2007 for offences punishable under Sections 395, 420, read with Section 34 of the Indian Penal Code, registered with City Police Station, Kopargaon, District Ahmednagar, at the instance of informant

Umesh s/o. Rangayya Shetty, by this application, is seeking for his release on bail.

2. Heard the learned Counsel appearing for the applicant / accused. He argued that there is no iota of evidence against the applicant and therefore his pre-trial detention is not warranted. The learned Counsel further argued that though the offence was registered on 01.09.2007, the applicant was not aware that he is arraigned as accused in that crime. The applicant, according to the learned Counsel for the applicant, was arrested on 13.05.2016 and since then he is behind the bars.

3. The learned Addl. Public Prosecutor opposes the application by submitting that there is one statement of witness which shows that some unidentified persons were robbing one person. Apart from this, the learned Addl. Public Prosecutor could not point out any tangible evidence against the present applicant in the crime in question.

4. In order to ascertain whether the applicant was evading arrest and was not submitting himself to the Investigating Officer, this Court on 1st September 2016, had directed the learned Addl. Public Prosecutor to produce case diary of the crime in question. This was done in order to ascertain whether the Investigating Officer had attempted to

arrest the applicant / accused and whether the applicant / accused was available at his usual place of abode. The learned Addl. Public Prosecutor on instructions makes a statement that the case diary of the crime in question is not available. As such there is no material on record to show that the applicant was absconding since the date of commission of the crime in question.

5. Liberty of a person is a prime consideration and when there is no tangible evidence against the applicant for the alleged offences, his further pre-trial detention is not warranted.

6. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, be released on bail on his executing P.R. Bond in the sum of Rs. 15,000/- and on furnishing one or more solvent sureties of the like amount.

(c) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(d) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial.

(e) The applicant shall not repeat commission of similar type of offences in future.

7. The Application stands disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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