

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

24 CRIMINAL APPLICATION NO. 4815 OF 2016

SHASHIKANT S/O VINAYAK KONALE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. A.A.Reddy, Advocate for Applicant.

Mr. S.M.Ganachari, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 19th SEPTEMBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 150/2016 registered at Udgir (Urban) police station, Tq. Udgir, Dist. Latur for the offences punishable u/ss 398,120 (B),353,323,506 (II) of the Indian Penal Code, u/s 4/25 of the Indian Arms Act, u/ss 4 and 5 of the Public Property Damages Act and u/ss 37 (1) read with 135 of the Maharashtra Police Act, by this application is seeking his release on bail.

2. Heard the learned counsel for the applicant. He argued that story of the prosecution, as reflected from the F.I.R., is totally absurd. The prosecution is alleging that the applicant and co-accused were found attempting to commit

robbery with dangerous weapon in broad day light at a place near Hawgi Swami College, Udgir. The learned counsel further argued that there are no allegations of assault or use of criminal force to the public servant in order to deter him from discharge of his duty and those allegations are against the co-accused.

3. The learned A.P.P. opposed the application by contending that the applicant and co-accused are caught red-handed by police.

4. Perused the F.I.R. as well as papers of investigation. According to the prosecution case, the present applicant and 2 co-accused were apprehended near Hawgi Swami College and Guru-krupa hotel as they started running after looking at the police. The F.I.R. further reveals that weapons such as Kukari, small sword and punch came to be recovered from accused persons. Further averments in the F.I.R. are to the effect that the co-accused Sonya and Santosh had broken glass panel of police jeep in order to prevent police personnel from discharging of duty and in order to implicate them in false case of custodial harassment.

5. So far as present applicant is concerned, there are no allegations that he had broken glass panel of police jeep for causing injury to himself. Considering the nature of allegations and the fact that present applicant is in M.C.R., his further pre-trial detention is not warranted. Hence, the following order.

(i) The application is allowed.

(ii) The applicant Shashikant s/o Vinayak Konale in Crime No. 150/2016 registered at Udgir (Urban) police station, Tq. Udgir, Dist. Latur for the offences punishable u/ss 398,120 (B),353,323,506 (II) of the Indian Penal Code, u/s 4/25 of the Indian Arms Act, u/ss 4 and 5 of the Public Property Damages Act and u/ss 37 (1) read with 135 of the Maharashtra Police 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.

[A.M.BADAR, J.]