

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

CRIMINAL APPLICATION NO.6014 OF 2015

Ashok @ Pasha Tukaram Shivarkar,
Age 49 years, Occu. Agriculture,
R/o Ward No.7, Shrirampur,
Taluka Shrirampur,
District Ahmednagar

..Applicant

Versus

The State of Maharashtra,
through the Police Inspector
Shrirampur City Police Station,
Taluka Shrirampur,
District Ahmednagar

..Respondent

Mr V.D. Hon, Senior Counsel i/b Mr A.V. Hon, Advocate for applicant
Mr S.M. Ganachari, A.P.P. for respondent

-WITH-

CRIMINAL APPLICATION NO.6047 OF 2015

1. Vasant @ Bhau s/o Shridhar Asane,
Age 39 years, Occu. Agriculture &
Business, R/o Ward No.3, Nivara
Housing Society, Shrirampur,
Taluka Shrirampur,
District Ahmednagar
2. Jayesh Dayaram Parmar,
Age 41 years, Occu. Business,
(Collection Agent), R/o Ward No.6,
Shivaji road, Near Samaj temple,
Shrirampur, Taluka Shrirampur,
District Ahmednagar
3. Kashinath Sukhdeo Telore,
Age 36 years, Occu. Labour (Waiter),
R/o Ward No.3, Kumbhar Galli,
Shrirampur, Taluka Shrirampur,
District Ahmednagar

.. Applicants

Versus

. The State of Maharashtra,
through the Police Inspector

Shrirampur City Police Station,
Taluka Shrirampur,
District Ahmednagar

..Respondent

Mr K.B. Autade, Advocate for applicants
Mr S.M. Ganachari, A.P.P. for respondent
Mr R.A. Tambe, Advocate assisting learned A.P.P.

- WITH -

CRIMINAL APPLICATION NO.6016 OF 2015

Rajendra @ Sanjay Murlidhar
Pansare, Age 47 years,
Occupation Agriculture,
R/o Near Kanda Market,
Shrirampur, Taluka Shrirampur,
District Ahmednagar

..Applicant

Versus

The State of Maharashtra,
through the Police Inspector
Shrirampur City Police Station,
Taluka Shrirampur,
District Ahmednagar

..Respondent

Mr R.R. Karpe, Advocate for applicant
Mr S.M. Ganachari, A.P.P. for respondent
Mr R.A. Tambe, Advocate assisting learned A.P.P.

- WITH -

CRIMINAL APPLICATION NO.6056 OF 2015

Ramdas s/o Maruti Shinde,
Age 39 years, Occu. Agriculture
and Business, R/o Vaiduvada,
Gondhawani Ward No.1,
Shrirampur, Taluka Shrirampur,
District Ahmednagar

..Applicant

Versus

The State of Maharashtra,
through the Police Inspector
Shrirampur City Police Station,
Taluka Shrirampur,
District Ahmednagar

..Respondent

Mr N.B. Narwade, Advocate for applicant
Mr S.M. Ganachari, A.P.P. for respondent
Mr R.A. Tambe, Advocate assisting learned A.P.P.

CORAM : N.W. SAMBRE, J.

DATE : 6th January 2016

PER COURT

Heard.

2. In all these applications, the applicants are seeking pre-arrest bail in Crime No.I-298/2015 registered at Shrirampur City Police Station, Shrirampur, District Ahmednagar, for the offence punishable under Sections 395, 365, 306, 116, 120-B, 323, 504, 506 (2) of Indian Penal Code and under Sections 39, 45 of Maharashtra Money Lending (Regulation) Ordinance.

3. Mr Hon, learned Senior Counsel for the applicant in Criminal Application No.6014 of 2015 would urge that from the perusal of F.I.R. it can be inferred that the complainant has admitted that he has taken hand loan from the applicant. According to him, bare perusal of the F.I.R. does not depict any specific role attributed to the applicant and the requirement of provisions under Sections 306, 365, 395 of the Indian Penal Code is not attracted against the applicant. He would then urge that if the applicant is not protected, the social image he carries will be damaged. According to him, the applicant is having money lending licence, though the same is not renewed. As such, the applicant needs to be protected.

4. Mr Karpe, learned Counsel for the applicant in Criminal Application No.6016 of 2015 made same line of arguments and urged that the applicant holds a valid money lending licence and he has been falsely implicated in the crime in question. Mr Karpe raised plea of alibi by relying upon the C.C.T.V. footage from the camera at the place of applicant and so also work place of the complainant. According to him, the requirement of provisions under Sections 306, 365, 395 of the Indian Penal Code is not attracted against the applicant. He would then urge that the competent authority to look into the allegations is already nominated by the State Government.

5. Mr Autade, learned Counsel for the applicants in Criminal Application No.6047 of 2015 would urge that the applicants are falsely implicated in the crime in question. According to him, no specific role is attributed to any of the applicants and there is no previous history as against the present applicants of involving in any crime.

6. Mr Narwade, learned Counsel for the applicant in Criminal Application No.6056 of 2015 would urge that the applicant has initiated the proceedings under Section 138 of the Negotiable Instruments Act against the complainant and as such, the complainant so as to overcome the liability in the said proceedings, has implicated the applicant as accused in the present case. He would then urge that there is no past history and there are vague allegations made in the F.I.R. against the applicant.

7. Learned Counsel for the applicants would urge that if the applicants are released on bail, they will abide by the conditions, as shall be imposed.

8. Learned A.P.P. while opposing the bail applications would urge that none of the applicants are holding money lending licence for the period during which the F.I.R. is lodged. According to him, perusal of the F.I.R. depicts that all the applicants have acted in a syndicate manner and as such, custodial interrogation is necessary as the investigation is at preliminary stage.

9. Learned A.P.P. was assisted by learned Counsel Mr Tambe for the complainant.

10. Having perused the investigation papers and the contents of F.I.R., prima facie it appears that all the applicants have acted contrary to the provisions of Money Lending Act, as even if it is presumed that in the case of Rajendra Pansare he holds the money lending licence, however, fact remains that it was not valid for the entire period mentioned in the F.I.R. Apart from above, it is to be noted that the investigation is at preliminary stage and there is material evidence available against the applicants. The investigation papers and contents of F.I.R. depict that the applicants have formed a cartel and have forced the complainant to opt for loan so as to satisfy the debt of each-other. It is further required to be noted that in view of the fact that admittedly, the applicants have indulged in the money lending business without authority of law.

11. Merely because the proceedings under Section 138 of the Negotiable Instruments Act are pending at the behest of applicant in Criminal Application No.6056 of 2015, that would not absolve him of the requirement under the statute. Apart from above, the applicability of provisions of Section 306, 395 and 365 of the Indian Penal Code could be looked into at an appropriate stage, however, having regard to the nature of accusations in the F.I.R. and the stage of investigation, it will be inappropriate, in my opinion to grant protection to the applicants. As such, all the applications fail, stand rejected.

12. At this stage, learned Counsel for the applicants pray for continuation of interim protection, which is opposed by learned A.P.P., however, having regard to the fact that the applicants were protected before the Sessions Court so also by this Court, the interim protection granted by this Court is extended by four weeks from today.

(N.W. SAMBRE, J.)

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