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

CRIMINAL APPLICATION NO.5864 OF 2016

Israil s/o Samad Patel,
Age: 26 years, Occ: Labour,
R/o. Pimpalner, Tq. Sakri,
District Dhule.

..APPLICANT

VERSUS

The State of Maharashtra
Through Police Inspector;
Police Station, Vaijapur,
Dist. Hingoli.

..RESPONDENT

Mr H.V. Tungar, Advocate h/f Mr C.R. Deshpande,
Advocate for applicant;
Mr C.V. Dharurkar, Addl. Public Prosecutor for
respondent

WITH

CRIMINAL APPLICATION NO.6300 OF 2016

1. Sonal @ Bhushan Madhavrao Gawale,
Age: Major, Occ: Labour,
R/o. Dondaicha, Tal.Shindkheda,
Dist. Dhule.

2. Anil Prakash Koli,
Age: 21 years, Occ: Labour,
R/o. Saldarnagar, Dondaicha,
Tal. Shindkheda, Dist. Dhule.

..APPLICANTS

VERSUS

The State of Maharashtra
Through PI Sarangkheda Police
Station, Tal. Dondaicha,
Dist. Dhule.

..RESPONDENT

(2)

Mr Girish Nagori, Advocate for applicant;
Mr C.V. Dharurkar, Addl. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 15th DECEMBER, 2016

ORAL ORDER :

Since the applicants in both the applications seek their release on bail pursuant to their arrest in Crime No. 43 of 2016 registered with Sarangkhedha Police Station, District Nandurbar, for the offences punishable under Sections 395 and 120-B of the Indian Penal Code, both the applications are being decided by this common order.

2. As per the first information report dated 12th May 2016, the informant was proceeding on motor cycle along with his colleague for collecting dues recoverable from the grocery shop keepers. It is stated that after collecting such dues, when their motor cycle came near Sarangkhedha village, three persons between the age of 25 to 30 years

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stopped them and forcibly took away the amount of Rs.2,40,000/- and two receipt books. On that basis, the aforesaid report came to be lodged, leading to arrest of the applicants.

3. It is submitted by the learned Counsel for the applicants that the applicants have been arrested merely on the basis of statement of one co-accused Chetan Girase. Though the test identification parade was held, the pillion rider on the said motor cycle could not recognized any of the applicants. The accused identified were not the present applicants. Insofar as the applicant Isarail Patel is concerned, a motor cycle and cash of Rs.42,000/- was seized. Insofar as the applicant Sonal is concerned, a mobile handset was seized, while an amount of Rs.17,000/- was seized from the applicant Anil. It is submitted that in absence of any eye witness identifying the applicants and the fact that after completing investigation, charge sheet has been filed on 28th September, 2016, the applicants deserve to be

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released on bail.

4. The applications are opposed by the learned Additional Public Prosecutor by relying upon the police papers. It is submitted that co-accused Chetan Girase has named all the applicants and hence, their involvement in the offence is obvious. The call detail records of the accused show their presence near the site of the offence. The seizure effected also implicates the accused. It is, therefore, submitted that the applications deserve to be rejected.

5. Perused the first information report as well as the charge sheet. The applicants herein have been named by the co-accused, after which, they came to be arrested. The incriminating material, according to the prosecution, has been seized from them. The test identification parade conducted by the prosecution indicates that the pillion rider on the motor cycle Suresh Suryawanshi has failed to identify the present applicants but has instead identified the accused Nos. 5 and 7.

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It is to be noted that as per the first information report, three persons had stopped the motor cycle of the informant and had forcibly taken away the aforesaid amount, seven persons have been named as accused. Considering the fact that the applicants have not been identified by the concerned witnesses in the test identification parade, a case for their release has been made out. Moreover, after the completion of investigation, the charge sheet has been filed.

6. In view of aforesaid, the following order is passed : -

(i) The applicants are directed to be released on bail in connection with Crime No. 43 of 2016 registered with Sarangkhedha Police Station, District Nandurbar, for the offences punishable under Sections 395 and 120-B of the Indian Penal Code, on furnishing P.R. bond of Rs.15,000/- each, with one surety in the like amount.

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(ii) The applicants shall attend the Court of Sessions Judge, Shahada, District Nandurbar on 22nd December, 2016 and thereafter as per the directions of the learned Sessions Judge.

(iii) The applicants shall not take any steps to influence the prosecution witnesses.

7. The observations made in this order are only for the purposes of deciding the present applications.

8. Criminal Applications are allowed and disposed of.

(A.S. CHANDURKAR, J.)

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