

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1852 OF 2016

1 Krushna Ashok Tambe.
2 Pramod alias Banti Saybu Sabale. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

WITH
CRIMINAL BAIL APPLICATION NO. 1853 OF 2016

Aditya Kisan Jadhav. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Shriram S. Chaudhari, advocate for applicants.

Mr. S.H. Yadav, APP for State in BA 1852/16.

Ms. Veera Shinde, APP for State in BA 1853/16.

Mr. V.N. Gengaje, P.C. Chinchwad Police Station, Pune.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 16, 2016**

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP
for State. Perused the papers.

2 These are applications under Section 439 of the Code of Criminal Procedure, 1973. The applicants herein are arrested on 7/5/2016 in Crime No. 120/2016 registered at Chinchwad Police Station for the offence punishable under Section 394 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 5/5/2016 Manish Chouhan, the cleaner of truck bearing No. MP-09/HF/9054 lodged complaint alleging therein that his brother Yashwant Chouhan was driver on the said truck and the alternative driver was Kamal Nayak. According to him, on 3/5/2016 he had carried the goods/flour from Parakh Agro Ltd.. The truck was hired by Suvidha Road Lines at Bhosari. The goods were brought to the Pune at Pimpri. On 5/5/2016 at about 6 a.m. he had stopped at Pimpri Chinchwad and unloaded the goods at Mukesh Trading Company, Bhatnagar. Mukesh Trading

Company has paid Rs. 22,000/-towards rent of the truck. Thereafter the truck was parked near Devilink Society. At about 2.30 p.m. two unknown boys had accosted him and questioned as to why they have parked the truck there. The said unknown boys had assaulted the complainant and other inmates and had stolen Rs. 22,000/- from his pocket. On 7/5/2016 Investigating Officer had recorded statement of one Shahu Surve who had disclosed to the police that upon seeing crowd near the truck, he had gone to see what is happening. At that time, he had seen the present applicants assaulting the driver with wooden logs. It appears that on the basis of this statement, the applicants were arrested. The investigation is completed and charge-sheet is filed.

4 The learned Counsel for the applicants submits that no test identification parade is conducted. According to the learned APP, the complainant was called for test identification parade. He hails from Madhya Pradesh and has not come to Pune for test identification parade. Taking this clue, the learned Counsel for the applicants

submits that there is no possibility that the complainant may be available even for the purpose of trial and therefore, the applicants would suffer long incarceration. It is true that there are no criminal antecedents. The applicants are young boys and have been in custody for more than 4 months. Investigation is completed and charge-sheet is filed and hence, the applicants deserve to be enlarged on bail.

5 It is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

6 Hence, following order is passed :

ORDER

- (i) The applications are allowed.
- (ii) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- each and one or more solvent sureties in the like amount.

- (iii) The applicants shall report to Chinchwad Police station on 1st Sunday of each month till framing of charge.
- (iv) The applicants shall not tamper with the evidence.

7 The applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)