

(1)

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

CRIMINAL APPLICATION NO.140 OF 2017

Laxman @ Sham Bhaskar Mahale,
Age: 21 years, Occ: Labour,
R/o. Tamthare, Tq. Shindkheda,
Dist. Dhule. ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr N.L. Choudhari, Advocate for applicant;
Mr R.V. Dasalkar, Addl. Public Prosecutor for
respondent

WITH

CRIMINAL APPLICATION NO.234 OF 2017

1. Sagar Gulab Bhil,
Age: 19 years, Occu: Labour,
R/o: Vani, Tal: Shindkheda,
Dist.: Dhule
2. Ravindra Vallabh Shirsath,
Age: 29 years, Occu: Labour,
R/o: Pimpalner,
Tal: Sakri, Dist. Dhule ..APPLICANTS

VERSUS

The State of Maharashtra,
Through PI Sarangkheda
Police Station,
Tal: Dhondaicha, Dist.: Dhule ..RESPONDENT

Mr Girish Nagori, Advocate for applicants;
Mr R.V. Dasalkar, Addl. Public Prosecutor for
respondent

(2)

CORAM : N.W. SAMBRE, J.**DATE : 30th JANUARY, 2017****ORDER :**

In Crime No. 43 of 2016, registered with Sarangkhedda Police Station, Nandurbar, for offence punishable under Sections 395 and 120-B of the Indian Penal Code, apart from claiming parity with that of co-accused Israil s/o Samad Patel, Sonal @ Bhushan Madhavrao Gawale and Anil Prakash Koli, who are ordered to be released on bail by this Court in Criminal Application Nos. 5864 of 2016 and 6300 of 2016, learned Counsel for the applicants submits that in absence of criminal antecedents, completion of investigation as charge sheet is filed, the applicants be ordered to be released. It is further urged that in the test identification parade, applicants were not identified, hence their prima facie involvement in the crime in question is under doubt.

2. Learned Additional Public Prosecutor opposed the application on the ground that there is

(3)

sufficient material to infer prima facie involvement of the applicants in the crime in question and would rely upon the statements of witnesses.

3. Having considered the submissions, it is to be noted that the nature of evidence available against the applicants is, they are named by co-accused. Accordingly, the investigation was carried out against the applicants from whom cash is already recovered.

4. There are no criminal antecedents and also issue as regards test identification parade, particularly when the accused persons at the time of commission of offence had covered their face is an issue needs to be appreciated.

5. In the above referred backdrop, in my opinion, the applicants who are behind bars for more than six months are required to be released on bail. Hence, following order is passed : -

(4)

The applicants be released on bail, in Crime No. 43 of 2016, registered with Sarangkhedha Police Station, Nandurbar, for offence punishable under Sections 395 and 120-B of the Indian Penal Code, on each of them furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.

The applicants shall not influence the prosecution witnesses or tamper with evidence.

The applicants shall attend the Court below regularly and two consecutive absence of the applicants shall entail the Court below to take out proceedings for cancellation of bail against the applicants.

6. Criminal Applications stand allowed in above terms.

(N.W. SAMBRE, J.)

Tupe