

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

CRIMINAL APPLICATION NO. 2748 OF 2016

Sudarshan s/o Shankar Puri,
Age 78 years, Occu. Kirtankar,
R/o Sangavi Patan,
Taluka Ashti, District Beed

.. Applicant

Versus

1. The State of Maharashtra,
For P.S. Ashti, Taluka Ashti,
District Beed, through the
Public Prosecutor
2. Subhashchandra s/o Mithulalji
Sarda, Age 60 years,
Occu. Agri. & Business,
R/o Kala Hanuman Thana,
Beed, Taluka and District Beed
3. Radheshyam s/o Vithaldas Soni,
Age 44 years, Occu. Service,
R/o "Mantri Construction",
Shani Mandir Galli, Beed,
Taluka and District Beed
4. Rajiv s/o Mohan Pawal,
Age 38 years, Occu. Service,
Cashier, R/o Ashti, Taluka Ashti,
District Beed

..Respondents

Mr N.K. Tungar, Advocate for applicant
Mr R.V. Dasalkar, A.P.P. for respondent no.1
Mr V.D. Salunke, Advocate h/f Mr N.P. Bangar, Advocate for
respondents no.2 and 3

- WITH -

CRIMINAL APPLICATION NO.3972 OF 2016

The State of Maharashtra,
Through Ashti Police Station,
District Beed

.. Applicant

Versus

1. Rajiv s/o Mohan Pawal (Mohal Pawal),
Age 38 years, Occu. Service,
Cashier, R/o Ashti, Taluka Ashti,
District Beed
2. Subhashchandra s/o Mithulalji

Sarda, Age 60 years,
Occu. Agri. & Business,
R/o Kala Hanuman Thana,
Beed, Taluka and District Beed

3. Radheshyam s/o Vithaldas Soni,
Age 44 years, Occu. Service,
R/o Mantri Construction,
Shani Mandir Galli, Beed,
Taluka and District Beed

..Respondents

Mr R.V. Dasalkar, A.P.P. for applicant
Mr S.K. Naikwade, Advocate for respondent no.1
Mr V.D. Salunke, Advocate h/f Mr N.P. Bangar, Advocate for
respondents no.2 and 3

CORAM : N.W. SAMBRE, J.

DATE : 7th March 2017

PER COURT

Heard.

2. In C.R. No.74/2016 registered at Police Station, Ashti for the offences punishable under Sections 420, 409, 465, 467, 468, 471 and 120-B of the Indian Penal Code, the respondents - accused were granted pre-arrest bail vide order dated 29th April 2016 passed by learned Additional Sessions Judge, Beed, which order is questioned in the present application on the following grounds :

(a) The antecedents of the respondents-accused are not taken into account;

(b) The respondent-Chairman and the Chief Executive Officer are the persons responsible for the crime in question, as in the core banking system, if the computer entries are tampered, the same has to be entered at the behest of accused persons; and

(c) The accused no.3 who is a Cashier of the Bank and is released, no reasons are recorded by the learned Additional Sessions Judge in the order dated 29th April 2016.

3. This Court time and again heard this matter and issued directions to the Additional Superintendent of Police, Beed to apply his mind to the investigation carried out by the Investigating Officer and if required issue appropriate instruments.

4. It is then to be noted that the Superintendent of Police, Beed has called the investigation papers and upon perusal of the the same, transferred the investigation to the senior Officer i.e Police Inspector and has also issued appropriate instructions in the matter.

5. Though the claim for cancellation of bail is also supported by learned Addl. Public Prosecutor by filing separate application being Criminal Application No.3972 of 2016, at this stage, I hardly see any reason for cancellation of bail of the respondents-accused.

6. So far as the issue about recovery of the amount is concerned, the complainant has every right to take out such proceedings as shall be advisable to him, however, for the said purpose, in my opinion, the Chairman and the Chief Executive Officer of the Bank who are not having any direct role in the act of withdrawal of amount, cannot be ordered to be detained by cancelling their bail.

7. So far as Cashier is concerned, in view of assurance by Superintendent of Police, if prima facie involvement of the said accused in the crime in question is noticed, it will be open for the

Investigating Officer to move afresh for cancellation of bail of said respondent Rajiv Mohan Pawal.

8. In view of above observations, no case for cancellation of bail of the respondents-accused is made out. Both the Criminal Applications stand rejected.

(N.W. SAMBRE, J.)

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