

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

CRIMINAL APPLICATION NO. 5777 OF 2017

1. Sachin Guruling Shinde
Age: 27 years, Occu.: Labour,
2. Vinayak Ravikumar Pawar
Age: 18 years, Occu.: Education,
3. Kalpana Suresh Shinde
Age: 40 years, Occu.: Household,
4. Vijubai Guruling Shinde
Age: 60 years, Occu.: Household,

All R/o Samta Nagar, Basmath,
Dist. Hingoli.

..APPLICANTS

VERSUS

State of Maharashtra
Through Police Station Basmath (Town),
Dist. Hingoli.

..RESPONDENT

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Mr. S.J. Salunke, Advocate for applicants.
Mr. K.N. Lokhande, A.P.P. for respondent - State.

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CORAM : V.L. ACHLIYA, J.
DATED : 08th DECEMBER, 2017

ORDER :

1. The applicants lying arrested in connection with offences punishable u/s 397, 395, 120B, 336, 323 of I.P.C. and section 4 r/w 25 of Indian Arms Act

registered vide C.R. No. 0468 of 2017 with Basmath Police Station, Dist. Hingoli, have preferred this application seeking bail. However, the learned Counsel not pressed the application for applicant no.1 and urged to grant permission to withdraw the application to the extent of applicant no.1 with liberty to file fresh application after filing of charge-sheet.

2. Heard the learned Counsel for the applicants and the learned A.P.P. for State.

3. In short, it is the contention of the learned Counsel for the applicants that the applicants are victims of false complaint lodged at the instance of the informant. By referring the allegations made in F.I.R., the learned Counsel submits that it is highly improbable that the applicants who are the neighbors of complainant, committed dacoity in his house. None of them previously involved in such criminal case. He submits that applicant nos. 1 and 2 are students. Applicant no.1 is preparing for competitive examinations for the post of Sales Tax Inspector and other competitive examination. Applicant no.2 also preparing to join military. He further submits that applicant no.3 is daughter-in-law of applicant no.4 and applicant no.5 is 60 years old woman – mother of applicant no.1. By referring the allegations made in F.I.R., the learned Counsel submits that name of applicant no.2 is not mentioned in F.I.R. nor any role attributed to

him in commission of offence. So also nothing is recovered at their instance. The allegations made against applicant nos. 3 and 4 are vague and general in nature. He further submits that the applicants have no criminal antecedents. Investigation is practically over. The applicants are lying in jail since 24th September, 2017. In this background the learned Counsel urged to release the applicant nos. 2 to 4 on bail.

4. On the other hand, the learned A.P.P. opposed the application with contention that there is strong evidence to connect the applicants with the commission of offence registered against them. By referring F.I.R. and statement of witnesses recorded during the course of investigation, the learned A.P.P. submits that applicant no.1 is prime accused in the case. So far as applicant no.2 is concerned, the learned A.P.P. submits that though the name of applicant no.2 not mentioned in F.I.R., but the witnesses to incident have stated that he was accompanied with accused nos. 3 and 4. He submits that looking to the gravity of the offence and nature of accusation, the application be rejected.

5. On due consideration of the submissions advanced, I am of the view that case is made out to release the applicant nos. 2 to 4 on bail. Investigation of the case is practically over. If the allegations made in F.I.R. as well as evidence gathered by prosecution is taken together which include recovery, then

except the allegation that they were involved in commission of offence of armed dacoity, there is no corroborative evidence to connect them with the involvement in commission of offence. Name of applicant no.2 is not mentioned in F.I.R. So far as applicant nos. 3 and 4 are concerned, it is alleged that they accompanied with other accused who were armed with sword and stick. Thus, considering the allegations against applicant nos. 2 to 4, I am of the view that they deserves to be released on bail. Release of applicant nos. 2 to 4 on bail will not affect the on going investigation. They have already undergone the custodial interrogation. Nothing is recovered from them. It will take long time to proceed with trial against them. Applicant no.2 is young boy of 18 years. Applicant no.4 is old woman aged about 60 years. Applicant no.3 is woman. No specific role is attributed to him in commission of offence. They are lying in jail since 24th September, 2017. I am therefore inclined to allow the application to the extent of applicant nos. 2 to 4. Hence the following order :-

ORDER

- (i) Application allowed to be withdraw to the extent of applicant no.1 with liberty to file fresh application after filing of charge-sheet.

- (ii) Application is allowed to the extent of applicant nos.2 to 4
- (iii) Applicant nos. 2 to 4 lying arrested in connection with offence u/s 397, 395, 120B, 336, 323 of I.P.C. and section 4 r/w 25 of Indian Arms Act registered vide C.R. No. 0468 of 2017 with Basmath Police Station, Dist. Hingoli, be released on bail on each of them furnishing bail in the sum of Rs.15,000/- with one surety in the like amount on the following conditions :-
- (a) Applicant nos. 2 to 4 shall appear before the officer in-charge of Basmath Police Station, Dist. Hingoli on last day of each month in between 10 a.m. to 11 a.m. to record his appearance
- (b) Applicant nos. 2 to 4 shall furnish names and addresses of his three close relatives with their contact numbers.
- (c) Applicant nos. 2 to 4 shall not indulge into offence of similar in nature during the pendency of trial.
- (d) Applicant nos. 2 to 4 shall not indulge into act amount to tampering the prosecution witnesses.

(iii) In the event of breach of any of the bail condition, bail granted to the applicant is liable to be cancelled.

(iv) Bail be furnished before the Sessions Court.

(v) Application stands disposed of in above view.

(V. L. ACHLIYA, J.)

SSD