

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

BAIL APPLICATION NO.2905 OF 2017

Shri. Vaibhav Tukaram Shelar (Naik) Applicants
& Ors.

Vs.

The State of Maharashtra Respondent

Mr. Vikas Shivarkar for the Applicants.
Mr. S.R. Agarkar, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 18th January, 2018

P.C.:

1 Heard the learned counsel for the applicants and the learned APP.

2 This is an application under Section 439 Code of Criminal Procedure. The applicants herein are arrested on 5th January 2017 in Crime No.8 of 2017, registered at Jejuri Police Station, for the offences punishable under Sections 399 and 109 Indian Penal Code and under Section 4(25) of Indian Arms Act.

3 It is the case of the prosecution that on 5th January 2017, Mahadev Kerba Kadam, who is officiating at Jejuri police station

lodged a report at the police station that while he alongwith Constable, G.H. Pinguwale was on patrolling duty on 4th January 2017, in the midnight at about 1.20 am., they received a message from Vadgaon Nimbalkar police station on their wireless informing them that white coloured scorio is seen moving in suspicious condition on Supa-Saswad road. The police had chased the said car. They apprehended the said car. The passengers in the said car had seen the police and therefore they had fled from the car. However, the police were successful in apprehending two of them namely Vaibhav Shelar and Rishikesh Patole. The co-accused Rishikesh is juvenile. Upon personal search, they had found one fighter with Vaibhav Shelar and cash of Rs.8,110/-. In the said Scorpio car, they had found an iron rod, 4 masks, one woollen monkey cap, 5 mobile hand-sets, nylon rope and a can containing 10 ltrs. of diesel and number plate of MH-15/BX-9227. The persons who were apprehended had disclosed the names of their associates i.e. Maruti Shinde, Bunty Jadhav and Akshay Patole absconding. Maruti is applicant no.3 and Bunty is applicant no.2. They had admitted that they were preparing to commit dacoity.

4 Learned counsel for the applicants submits that the applicants have been in jail for almost 1 year. That the co-accused, who are not named in the F.I.R. has been enlarged on bail. That there is no incriminating substance against the applicants and that

they have been arrested on suspicion. However, the learned APP submits that the F.I.R. itself would falsify the said submissions as it is apparent that they were in preparation of the offences. That upon seeing the police, they fled from the spot and the police had succeeded in apprehending them. Learned APP also submits that the applicants have criminal antecedents.

5 On perusal of papers of investigation, this Court is of the opinion that in the facts and circumstances of the case, the applicants do not deserve to be enlarged on bail. The application being sans-merits stands rejected.

6 The observations made hereinabove are prima facie in nature and are restricted to the application under Section 439 Code of Criminal Procedure and the trial Court shall not be influenced by the same.

(Smt. Sadhana S. Jadhav, J)