

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 BAIL APPLICATION NO.1186 OF 2020

1) KHWAJA SALIM SHAHA
2) AWEJ ASLAM SHAHA
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Tambe Rahul A.
APP for Respondents: Mrs. P.V. Diggikar
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CORAM : V. K. JADHAV, J.
DATED : 26th OCTOBER, 2020

PER COURT:-

1. Leave to correct the name of applicant No.1 in the title clause.
2. The applicants are seeking bail in connection with crime No. I-142 of 2020 registered with Rahata police station, District Ahmednagar for the offences punishable under Sections 341, 397, 201 and 34 of I.P.C. Their application below Exh.3 and 5 in Sessions Case No. 53 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge-1, Kopargaon vide order dated 28.9.2020.
3. Learned counsel for the applicants submits that investigation is over and the charge sheet has been submitted. The informant, who is driver, has lodged the complaint against unknown person, however, these applicants came to be arrested in connection with this crime merely on suspicion. Learned counsel submits that the

meager amount shown to have been recovered from the applicants during the course of investigation, however, there is no further connecting evidence against them. There is no criminal history. Both the applicants are having permanent place of residence. They are available for trial. The applicants may be released on bail.

4. Learned A.P.P. has strongly resisted the application on the ground that so far as applicant No.1 is concerned, he has been identified by the informant and as such there is strong prima facie case against both the applicants. Learned A.P.P. submits that certain cash amount has been snatched from the informant and thus recovery of cash amount at the instance of the applicants is an important circumstance. The applicants may not be released on bail.

5. On going through the allegations made in the complaint and on perusal of the charge sheet, it appears that the complaint came to be lodged against unknown person on 24.6.2020. On 24.6.2020 itself the applicant No.1 came to be arrested in connection with the present crime on suspicion and applicant No.2 also came to be arrested in connection with the present crime on 27.6.2020 on suspicion. On the same set of allegations and even though there is recovery at the instance of co-accused Gulab, the court below has released the said co-accused Gulab on bail. So far as the applicant No.1 Khwaja is concerned, an amount of Rs.20,000/- shown to have been recovered from his personal search and an amount of

Rs.10,000/- shown to have been recovered at the instance of applicant No.2. Though applicant No.1 was identified in the identification parade conducted during the course of investigation, however, I am inclined to release both the applicants on bail since there is no criminal history. Both the applicants are having a fixed place of residence and they are easily available for trial. Hence the following order:-

O R D E R

- I. Application is hereby allowed.
- II. The applicant No.1 Khwaja Salim Shaha and applicant No.2 Awej Aslam Shaha, in connection with crime No. I-142 of 2020 registered with Rahata police station, District Ahmednagar for the offences punishable under Sections 341, 397, 201 and 34 of I.P.C. be released on bail on furnishing personal bond of Rs.20,000/- each with one solvent surety each of the like amount on following conditions:-
 - a) The applicants shall not tamper with the prosecution evidence in any manner.
- III. Application is disposed of.

(V. K. JADHAV, J.)

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