

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.24 OF 2021

Mahesh s/o Arun Dhaware

... Applicant

Versus

The State of Maharashtra

... Respondent

...

WITH

BAIL APPLICATION NO.13 OF 2021

Dharamlal s/o Bansilal Kamble

... Applicant

Versus

The State of Maharashtra

... Respondent

...

WITH

BAIL APPLICATION NO.22 OF 2021

Nitin s/o Madhukar Ekurkekar

... Applicant

Versus

The State of Maharashtra

... Respondent

...

WITH

BAIL APPLICATION NO.39 2021

1. Sharad s/o Sudam Kamble

2. Shyam s/o Nivratti Kasbe

... Applicants

Versus

The State of Maharashtra

... Respondent

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Mr. K. P. Rodge, Advocate for applicants in Bail Application Nos.24 of 2021 and 22 of 2021.

Mr. U. L. Momale, Advocate for applicants in Bail Application Nos.13 of 2021 and 39 of 2021.

Mr. A. M. Phule, APP for respondent – State in all the bail applications.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 5th February, 2021

Pronounced on : 9th March, 2021

ORDER :-

. Present bail applications have been filed under Section 439 of the Code of Criminal Procedure, by original accused persons who came to be arrested by Udgir Rural Police Station, District Latur in connection with Crime No.430 of 2020 for the offence punishable under Section 395 of Indian Penal Code.

2. Heard learned Advocate Mr. K. P. Rodge and learned Advocate Mr. U. L. Momale for the applicants in respective applications and learned APP Mr. A. M. Phule for respondent-State.

3. It has been vehemently submitted on behalf of applicants that applicants have been arrested on 18.11.2020. They have undergone necessary police custody remand. Now, substantial part of the investigation is over and physical custody of the applicants is no longer required by the police authorities. It would take long time to stand the trial of the applicants before the learned Magistrate. The first information was lodged against unknown persons. Applicants are not habitual offenders. It appears that there was some altercation between the accused persons and the informant, when the tempo of the informant had given cut to the car of the applicants. There might be some unknown person who had taken away the cash bag of the

informant taking advantage of the situation. Applicants are innocent. They are ready to abide by the terms of the bail. Learned Advocate for the applicants then prayed for releasing the applicants on bail.

4. Learned APP strongly submitted that the applicants are not entitled to be released on bail, as they are involved in one of the serious crime. There is ample evidence against the present applicants. The investigation is still in progress. Stolen property has been recovered at the instance of the applicants under Section 27 of the Indian Evidence Act. The applicants had intentionally raised the dispute and then taking disadvantage of the situation, took away the money bag. Informant had sold the cotton grown in his land on the same day and therefore, he was having sufficient amount with him. There is eye witness to the incident. The driver of the tempo has also received injuries. Under such circumstance, they deserve no sympathy.

5. Information has been lodged by one Baliraj Wadkar, resident of Mahadevwadi, Tal. Devni, Dist. Latur on 17.11.2020. He has stated that he has agricultural land in Mahadevwadi. He had taken cotton and soyabean in his field. He had harvested the crop and took it in tempo bearing No.MH-48-P-7685 with driver Aakash Hande to Udgir for sale. He received amount of Rs.63,340/- as price of soyabean. He kept

Rs.3,340/- in his pocket and rest of the amount of Rs.60,000/- was kept by him in the bag having chain. He had given rent of tempo to driver out of his own amount. He started his return journey. When they were near overbridge of Nalegaon, one car bearing No.MH-24-V-1047 obstructed their road. Three unknown persons got down from car and started quarreling with them. Another unknown person came on motorcycle bearing No.KA-39-J-7072 and he also started quarreling. They had assaulted the informant and even the driver and took them to the rear side of the tempo. In the meantime, the amount was stolen from the bag kept in tempo. Thus, perusal of the FIR would show that informant was not knowing applicants. Perusal of police papers would show that they could recover only Rs.8,000/- from the applicants. The vehicles have been seized. Applicants have undergone police custody. There appears to be no eye-witness to the incident, who has seen any of the applicant stealing the amount. Identification parade has also been conducted. There are no criminal antecedents of the applicants. They have permanent place of abode. Charge-sheet is yet to be filed. Substantial part of the investigation is over. Under such circumstance, this Court is inclined to grant bail to the applicants, however, with conditions. Hence, the following order :-

ORDER

- 1) All the applications stand allowed.
- 2) Applicants viz., (i) Mahesh s/o Arun Dhaware, (ii) Dharamlal s/o Bansilal Kamble, (iii) Nitin s/o Madhukar Ekurkekar, (iv) Suresh s/o Sudam Kamble and (v) Shyam s/o Nivratti Kasbe in respective bail applications, who have been arrested in connection with Crime No.430 of 2020 registered with Udgir Rural Police Station, District Latur for the offence punishable under Section 395 of Indian Penal Code, be released on P. R. Bond of Rs. 30,000/- (Thirty Thousand) each with one solvent surety of like amount.
- 3) They shall not tamper with the evidence of the prosecution in any manner.
- 4) They shall not indulge in any criminal activity.
- 5) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm