

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.154 OF 2021

1. Irfan Sakur Saifi
2. Nisar Sakur Saifi

... Applicants

Versus

The State of Maharashtra

... Respondent

.....
Mr. S. S. Jadhav, Advocate for applicants.
Mr. A. M. Phule, APP for the respondent – State.
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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 19th March, 2021

ORDER :-

. Both the applicants have been arrested on 16.08.2020 in connection with Crime No.78 of 2020 registered with Jillapeth Police Station, District Jalgaon for the offences punishable under Sections 457, 380, 427 of Indian Penal Code. They have filed present application for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. S. S. Jadhav for applicants and learned APP Mr. A. M. Phule for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. It can be seen from the charge-sheet that has been filed by police that the investigation is over and the charge-sheet has been filed which is now numbered as Regular Criminal Case No.862 of 2020. This indicates that the further physical custody of the applicants is no longer required for the purpose of investigation. Perusal of the charge-sheet would show that the FIR was lodged by Divesh Arjun Chaudhari, Branch Manager of State Bank of India, Shiv Colony Branch, Jalgaon. It has been stated that he had inspected the ATM machine and had deposited amount of Rs.20,00,000/- in the said machine at about 4.00 p.m. on 09.07.2020. The earlier amount that was in balance in the machine was to the extent of Rs.8,27,500/-. It is stated that there is no security guard placed at the said ATM machine room which is owned by one Santosh Bhagwan Jadhav. All the bank transactions on 10.07.2020 were as per routine, but then when he received information on his mobile at about 7.30 a.m. on 12.07.2020 stating that ATM machine has been damaged and the boxes are taken out of the machine, he went to the said room and saw the CCTV footage. It was found that certain thieves were committing theft between 1.55 to 2.35 a.m. on 12.07.2020. He found out the balance, still amount of Rs.14,41,500/- was remaining on 12.07.2020 and that was stolen. Therefore, he lodged the report against unknown persons.

4. The charge-sheet further states that the present applicants were found to be arrested in similar offence, which is registered with Bhupani Faridabad Police Station in Haryana State i.e. Crime No.50 of 2020. Important point to be noted is that merely because they are arrested in one such similar offence that does not allow us to presume that they would be involved in the present case. There appears to be no direct evidence against the present applicants and the CCTV footage which is recovered from the ATM room at Shiv Colony has been seized, but the transcript of the same has not been given. Further, it appears that charge-sheet does not show that any identification parade has been held for any purpose. Nothing has been seized at the instance of the present applicants. It is not even the case of the prosecution that Haryana police had seized certain articles which are involved in the present case and, therefore, by getting that connection, the applicants were got arrested in this case. Under such circumstance, for some remote indirect evidence, the applicants need not be kept behind bar till the conclusion of the trial. Hence, the following order :-

ORDER

- (I) Application stands allowed.
- (II) Applicants viz., (i) Irfan Sakur Saifi and (ii) Nisar Sakur Saifi, who have been arrested in connection with Crime

No.78 of 2020 registered with Jillapeth Police Station, District Jalgaon for the offences punishable under Sections 457, 380, 427 of Indian Penal Code, be released on P. R. Bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.

(III) They should attend the concerned Police Station on every Sunday between 10.00 a.m. to 2.00 p.m. until further orders.

(IV) They shall not tamper with the evidence of the prosecution in any manner.

(V) They shall not indulge in any criminal activity.

(VI) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm