

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

927 BAIL APPLICATION NO.544 OF 2021

**PRADIP KRUSHNA KAPADE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Jagdish K. Bansod, advocate for the applicant
Smt. D. S. Jape, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 31st August, 2021

PER COURT :-

1. Heard.
2. Applicant is accused of commission of offence under Section 395 of the Indian Penal Code.
3. The informant at the time of the incident was preparing for Railway Board examination. To appear for the examination, he had reserved the tickets of Secunderabad Express on 20th January, 2021. He was on his way to the railway station Parbhani. One auto in which 5 persons were sitting overtook him and again came back. All the accused persons robbed him of Rs. 1300/- and mobile of Redmi

company. Thereafter they fled from the spot of the incident. He had noted the RTO passing number of the auto. It was MH22 AP 1504. Soon thereafter he noticed the police van. When the incident was reported to the police, they swung into action and arrested the applicant on the very day of the incident. Accordingly, offence under Section 395 of the Indian Penal Code came to be registered against the applicant and other accused.

4. Learned counsel Shri. Bansod for the applicant submits that there is no evidence against the applicant to connect him with the offence. Mobile phone was recovered from another accused. No recovery is made from the applicant.

5. Learned APP submits that though no recovery is effected from the applicant, he was identified by the informant. Therefore, applicant may not be released on bail.

6. On perusal of the papers it seen that charge-sheet has been filed. The applicant is behind the bars since

the date of the incident i.e. 20th January, 2021. No recovery is made from him. The mobile handset which the applicant was possessing at the time of incident is not recovered from the applicant but it is recovered from some other accused. Therefore, there is no prima facie case to connect the accused with the offence. I am, therefore, inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount in connection with CR No. 28 of 2021 under Section 395 of the Indian Penal Code registered with Modha Police Station, Parbhani and on condition that he shall attend all the dates which will be fixed during the trial.
3. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same.

4. Application is disposed of.

[M. G. SEWLIKAR, J.]

ssp