

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

BAIL APPLICATION NO.1143 OF 2021

Kiran S/o Bhausaheb Jadhav

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Sunil G. Magre Advocate for Applicant.
Shri N.T. Bhagat, A.P.P. for Responden-State.
...

CORAM: M.G. SEWLIKAR, J.

DATE : 24th NOVEMBER, 2021

ORDER :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. I-150 of 2021 registered with Loni Police Station, District-Ahmednagar, for the offences punishable under Sections 395, 397 of the Indian Penal Code and Section 4/25 of the Arms Act.

2. Facts in brief are that the informant Kishor Motiram Dukale was driving the truck bearing No. MH-18-BG-2797. One Dattu Uttam Shermale from his village was driving truck bearing No. MH-41-KU-5575. At about 1.30 a.m. the truck of Dattu Shermale had a flat tyre, owing to which it was stopped for changing the tyre near Mejwani Hotel, Kolhar, Taluka-Rahata, District-Ahmednagar. When the informant and Dattu Shermale were changing the tyre, four persons came there. They were armed with sickles. They robbed informant and the cleaner of Rs.7500/-, a mobile phone and Adhar Card. From the other truck driver, namely Manoj Popat Sagar, who arrived at the spot of the incident a little while later, applicant and other accused robbed Rs.3600/-. Upon the report of the informant an offence under aforesaid Sections, came to be registered.

3. Heard Shri Magre, learned counsel for the applicant and Shri Bhagat, learned APP for the State.

4. Learned counsel Shri Magre submits that only mobile is recovered from the applicant. He further states that there is no documentary evidence to show that it was owned by the cleaner. He submits that the applicant has no criminal antecedents.

5. Learned APP submits that mobile has been recovered from the applicant. He submits that the offence being serious in nature, the application deserves to be rejected.

6. On perusal of the charge-sheet, it appears that the only evidence against the applicant is seizure of mobile phone. There is no evidence to show that said mobile phone belongs to the cleaner who was travelling with the truck. Therefore, practically there is no evidence against the applicant. Applicant has no criminal antecedents. This is his first offence. Nothing is brought on record to show that applicant will not be available for trial.

7. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

(i) Bail Application is allowed.

(ii) Applicant be released on bail on his furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount, in connection with Crime No. I-150 of 2021

registered with Loni Police Station, District-Ahmednagar, for the offences punishable under Sections 395, 397 of the Indian Penal Code and Section 4/25 of the Arms Act.

(iii) Bail Application is disposed of.

(iv) It is clarified that the observations made in the above order are restricted to the decision of this application/s only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]