

4. Learned counsel for the applicants/accused contended that the Applicants/Accused are innocent and have falsely been implicated in this case just to show their efficiency and progress in the investigation. He contended that the FIR was lodged against unknown persons, disclosing no description of the alleged robbers therein. He further contended that the applicants/accused have been arrested on 22.05.2020, while their identification parade was held on 30.05.2020 and since then they are in custody continuously yet prosecution failed to bring any evidence against them on record. During the course of arguments he laid emphasize that fair and expeditious trial is a fundamental right of the applicants/accused and they cannot be devoid such right, thus they cannot be put indefinitely in Prison when the delay is not on their part. During the arguments, he also questioned the authenticity of the identification parade. He stated that alleged identification parade was held after nine days of police custody remand of the applicants/accused and during such police custody remand, applicants/accused were shown to the alleged eye-witnesses at the police station several times and such objection was also agitated by them before the learned Judicial Magistrate during identification parade.

5. Learned A.P.G with the assistance of the learned counsel for the complainant opposed the contents of the bail application with vehement contending that the applicants/accused had rightly been identified by the eye-witnesses in identification parade. He further submitted that the offence with which applicants/accused are charged falls within the prohibitory clause of section 497 Cr.P.C; therefore, they are not entitled for concession of bail.

6. After hearing arguments and perusal of record, I am of the view that as per record, the Applicants / Accused were arrested after about

four months of the incident and remained in police custody for sufficient time but no recovery of alleged stolen property(s) and / or arms was effected from their possession except one SIM No.03130205910. The I.O has produced the Applicants / Accused for Identification Parade before the concerned Magistrate after nine (09) days of their arrest. Per learned counsel for the Applicants / Accused, they have pointed out and raised legal objection before the learned Magistrate at the time of Identification Parade that the Applicants / Accused were shown to the witnesses for several time during their confinement in police lockup. It is noticed that the Complainant as per his own submission in the F.I.R has failed to provide to the I.O the list of those articles which according to him, the robbers took from his house while committing robbery. It is also noticed that no CRO obtained by the I.O to prove that they are habitual offenders and have had history of crimes. The instant matter therefore required further inquiry, hence, I am inclined to release them on bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Lac Only) each with P.R Bond in the like amount to the satisfaction of the trial Court.

7. Needless to mention here that observations, if any, made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicants / accused on merits.

8. Above are the reasons of my short order dated 24.08.2020.

J U D G E

M. Khan

