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

CRIMINAL APPLICATION NO.4598 OF 2015

Suresh s/o Bhagwan Puri,
Aged 65 yrs, Occ. Retired,
R/o Plot No.120, Arunoday
Colony, Aurangabad

..APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
City Chowk Police Station,
Aurangabad,
Tal. & Dist. Aurangabad
- 2) Commissioner of Police
Aurangabad
- 3) Avinash s/o Kishan Rathod,
Age : 32 year, Occu. Social Worker,
R/o Suman Sadan, Navin Vasti,
Naik Nagar, Taluka - Barshi (Takli),
District Akola

..RESPONDENTS

**WITH
CRIMINAL APPLICATION NO.4599 of 2015**

Motiraj s/o Bhajnu Rathod,
Age : 73 yrs, Occ. Retired,
R/o Kala Niwas, Banjara Colony,
Aurangabad

..APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
City Chowk Police Station,
Aurangabad,
Tal. & Dist. Aurangabad
- 2) Commissioner of Police
Aurangabad

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- 3) Avinash s/o Kishan Rathod,
Age : 32 year, Occu. Social Worker,
R/o Suman Sadan, Navin Vasti,
Naik Nagar, Taluka - Barshi (Takli),
District Akola ..RESPONDENTS

Mr S.B. Talekar, Advocate for applicants;
Mrs M.A. Deshpande, Addl. Public Prosecutor for respondents No.1 & 2;
Mr Ade, Advocate for respondent No.3;
Mr B.A. Dhengle, Advocate assist Addl. Public Prosecutor in Cri.
Application No.4598 of 2015;
Mr G.K. Thigle, Advocate to assist Addl. Public Prosecutor in Cri.
Application Nos.4598 of 2015 and 4599 of 2015;

CORAM : N.W. SAMBRE, J.

DATE : 19th October, 2015

ORAL ORDER :

By the present applications under section 438 of the Code of Criminal Procedure, the applicants in both the applications, seek enlargement on bail, in the event of their arrest, in connection with C.R. No.I-212 of 2015, registered with City Chowk Police Station, Aurangabad, for offences punishable under sections 406, 420, 408, 467, 471 read with sec. 34 of the Indian Penal Code.

2. The applicants herein are added as accused nos.1 and 2 in Criminal Application No.1731 of 2015, initiated by one Avinash Rathod, in the Court of Judicial Magistrate First Class at Aurangabad, under the provisions of section 156 (3) of the Code of Criminal Procedure, alleging therein that the land bearing Gat No.243, ad measuring 11 Hectares, situated at village Satara, was purchased on 3rd June, 1981, for a consideration of

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Rs.30,000/- in the name of the proposed Rural Reconstruction Sanstha and the applicants herein got the sale deed executed in their favour of the said land. The object with which the said land was purchased, was to make available small pieces of plots to its members upon registering the same as a public trust and a society. In the complaint, it is further claimed by the complainant that instead of taking steps for registering the said institution as a public trust, the applicants herein, taking advantage of the sale deed executed in their own names, sold the said property for a consideration of Rs.6,60,00,000/- to Vasant Dada Sugar Institute and swallowed the said consideration as if the property was of their individual.

3. The learned Judicial Magistrate First Class, Aurangabad, by an order dated 24th July, 2015 was pleased to pass an order referring the matter to the police authorities for investigation against the present applicants, resulting into registration of C.R. No. I-212 of 2015, with City Chowk Police Station, Aurangabad, for offences punishable under sections 406, 420, 408, 467, 471 read with sec. 34 of the Indian Penal Code and sections 66-A and 67 of the Bombay Public Trusts Act.

4. In the above referred background, while making out a case for grant of pre-arrest bail, Mr Talekar, learned Counsel appearing on behalf of the applicants, would urge that the land bearing Gat No.243, ad measuring 11 Hectares, situated at village Satara, which was sold by the applicants, about which the orders, in exercise of powers under section 156 (3) of the Code of Criminal Procedure, are passed by the Judicial Magistrate First

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Class, Aurangabad. The said land was purchased vide registered sale deed dated 3rd June, 1981, for a consideration of Rs.30,000/-, in the name of the proposed Rural Reconstruction Sanstha by Suresh Puri, who is applicant in Criminal Application No.4598 of 2015. Since the said land was purchased in the name of un-registered society/trust, the said property vested in the un-registered trust and is required to be managed pursuant to the provisions of section 36-B read with Rule 24-A of the Bombay Public Trusts Act and the Rules framed thereunder.

5. While making out a case, he would then urge that the above referred property was purchased out of the individual income of the applicants, Mr Talekar has tried to prevail upon this Court, by pointing out that at the relevant time, both the applicants, who were Academicians, were getting appropriate income out of their salary, which was pursuant to the pay scales sanctioned by the University Grants Commission. Apart therefrom, he would urge that the applicants are literary figures, having no criminal antecedents and the complainant has approached the Judicial Magistrate with a complaint case, purely with an intention to blackmail them or to twist their arms. According to him, since there was sudden rise/escalation in the price of the land in question, the complainant has chosen to prefer the complaint, which has hardly any basis. With a view to substantiate his contention, he has invited my attention to the contents of the sale deed dated 3rd June, 1981, executed in favour of Rural Reconstruction Sanstha. Thus, he prayed for enlargement of the applicants on pre-arrest bail.

6. Learned Public Prosecutor, appearing on behalf of respondents no.1 to 2, who is assisted by respective learned Counsel, while opposing the prayer for grant of pre-arrest bail, would urge that there is *prima facie* involvement of the applicants in the crime in question. According to her, the fact remains that even if the property was purchased in the name of proposed trust/society, namely, Rural Reconstruction Sanstha, on 3rd June, 1981, the same never vests in the individuals, like the applicants before this Court. According to her, the said property was held by the applicants in trust and have hardly any authority to transfer the same, as the same was purchased out of the funds which were raised through the proposed Rural Reconstruction Sanstha. According to her, the act on the part of the applicants, in selling the said property for Rs.6,60,00,000/-, amounts to a fraud on the proposed society and its members and having regard to the seriousness of the economic offence, it will be appropriate to reject pre-arrest bail applications filed by the applicants. Learned Addl. Public Prosecutor has invited attention of this Court on the aspect of the contents of the applications preferred by the respective Counsel, seeking permission to assist the prosecution. Thus, the learned Addl. Public Prosecutor prayed for dismissal of the applications.

7. Having perused the record and analyzed the contentions in the aforementioned background, it is required to be noted that, it is an admitted position on record that on 3rd June, 1981, land bearing Gat No.243, ad measuring 11 Hectares, situated at village Satara, was purchased for a

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consideration of Rs.30,000/- in the name of the proposed society, namely, Rural Reconstruction Sanstha, for which the founder members have contributed the funds.

8. The applicants herein, who were office bearers of the said society for quite a long time, have not pursued the matter to register the said sanstha as a trust and rather continued to hold the property as their individual belonging. It is then noted from the record that upon death of large number of members of the said proposed society, they formed an opinion that they being surviving members of the trust are individual members of the proposed society and have dealt with the same, as if the said property is their private property.

9. It appears that there is *prima facie* involvement of the applicants in commission of the crime, which was formed to be the basis by the learned Judicial Magistrate, while passing order under section 156 (3) of the Code of Criminal Procedure. The nature of accusations against the applicants are that of commission of an economic offence, which has large ramifications on the society. Apart therefrom, there is *prima facie* involvement of the applicants in commission of the crime in question.

10. Merely because the applicants are literary figures or academicians, that does not mean that the law should deal with such people in a different manner.

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11. In the light of what has been observed here in above, in my opinion, no case for grant of pre-arrest bail is made out by the applicants. Thus, both the Criminal Applications stand rejected.

12. At this stage, Mr Talekar, learned Counsel appearing on behalf of the applicants submits that the interim protection granted by this Court be extended for the period of one week. The prayer for continuation of interim protection is strongly opposed by the learned Addl. Public Prosecutor. However, looking to the age of the applicants, in my opinion, it will be appropriate to extend the interim protection and accordingly the same is extended for a period of one week from today.

Office is directed to issue authenticated copy to the learned Counsel appearing on behalf of the applicants.

(N.W. SAMBRE, J.)

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