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

CRIMINAL APPLICATION NO.5468 OF 2015

Bhagwan Vedugir Gosavi & ors. ..APPLICANTS

VERSUS

The State of Mah. & anr. ..RESPONDENTS

Mr L.S. Mahajan, Advocate for applicants;
Mr N.T. Bhagat, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 26th October, 2015

ORAL ORDER :

By the present application, the applicants seek their release on pre-arrest bail, in connection with C.R. No. 173 of 2015, registered with Shirpur police station, Dist. Dhule, for offences punishable under sections 395, 354, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code.

2. It is the case of the prosecution, that the applicants entered the field, of which the complainant, her husband and father-in-law are in possession, pursuant to the agreement to sell executed on 14th June, 2005 and 15th June, 2005, between the applicants and the complainant and tried to dispossess the complainant and her family members with the aid of criminal force.

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3. Learned Counsel appearing on behalf of the applicants, while trying to make out a case for grant of pre-arrest bail, would urge that a litigation is pending between the applicants and the complainant, and has invited my attention to the plaint in Regular Civil Suit No.6 of 2015, filed by the father-in-law of the complainant against the applicants herein, for specific performance of contract. Apart therefrom, he has invited attention of this Court to N.C. No.47 of 2015, registered on 25th January, 2015, so as to submit that there exists a civil dispute between the parties and false implication of the present applicants, in the present crime, cannot be ruled out. Thus, he prayed to grant pre-arrest bail to the applicants.

4. Learned Addl. Public Prosecutor, while opposing the application, would urge that custodial interrogation of the applicants is necessary for recovery of gold chain. He then would urge that there is likelihood of law and order problem in the village and as such, the application be rejected.

5. Having analyzed the submissions made by the respective parties, it is required to be noted that the offence in which pre-arrest bail is sought, was registered pursuant to the directions issued by the learned Judicial Magistrate First Class, in exercise of powers under section 156 (3) of the Code of Criminal Procedure.

6. Prior to registration of the offence in which the pre-arrest bail is sought, there exists a civil dispute between the parties hereto, i.e. the

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complainant and the accused, in relation to an immovable property and in fact, the applicants have already filed a complaint against the complainant and her family members, alleging therein commission of a crime, for which N.C. No.47 of 2015 was registered.

7. In view of above background, in my opinion, false implication of the applicants, in the crime in question, cannot be ruled out.

8. In view of above, in my opinion, it will be appropriate to grant protection to the applicants. I, therefore, pass following order :-

In the event of arrest of the applicants, in connection with C.R. No. 173 of 2015, registered with Shirpur police station, Dist. Dhule, for offences punishable under sections 395, 354, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code, they be released on bail, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicants shall attend the Investigating Officer, as and when reasonably called by him for the purposes of investigation/interrogation.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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