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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
APPELLATE SIDE**

**CRIMINAL BAIL APPLICATION NO. 988 OF 2015
IN
C. R. NO. 52 OF 2014**

Shivprasad Rajnarayan Yadav ... APPLICANT

VERSUS

State of Maharashtra. ... RESPONDENT

**WITH
CRIMINAL BAIL APPLICATION NO. 989 OF 2015
IN
C. R. NO. 52 OF 2014**

Ramesh Vishnu Khedaskar ... APPLICANT

VERSUS

State of Maharashtra. ... RESPONDENT

...

Mr. I. K. Tripathi, a/w Mrs. Bhagyashri Gawai, Advocate for Applicant in both the matters.

Ms. S. S. Kaushik, APP for Respondent / State in both the matters.

Mr. Vijay Kadam, A.P.I., BKC Police Station, in both the matters.

...

CORAM : **V. L. ACHLIYA, J.**

DATE : 29th June, 2015.

P.C.:

1 Being aggrieved by order dated 13th May, 2015, passed
Additional Session's Judge, City Civil & Sessions Court, Greater

Bombay in Criminal Application Nos.1359 of 2015 and 1360 of 2015, whereby rejected their bail applications, the applicants have approached this Court for grant of bail in an offence registered against them vide Crime No. 52 of 2014 with B.K.C. Police Station, Mumbai for commission of offences punishable under Sections 419, 420, 465, 467, 468, 471 r/w 34 of the Indian Penal Code.

2 In nutshell, it is the contention of applicants that they are involved in a false case registered at the instance of complainant. Learned counsel for the Applicants strenuously argued that the complaint filed by the Complainant to set the law in motion is nothing, but a gross abuse of process of law and an attempt to convert a civil litigation into a criminal case. By referring the copy of the plaint of civil suit bearing S. C. Suit No.3594 of 2013 filed in the City Civil Court, Mumbai, Branch at Dindoshi by the complainant, the learned counsel argued that though the civil dispute in respect of property, which is subject matter of suit as well as the complaint is pending for adjudication before civil court, still the Complainant has filed false complaint. Learned counsel further submits that the property in question referred in the complaint is located at Jogeshwari, whereas the complaint was filed with B.K.C. Police Station for the reasons best known to the Complainant. Learned counsel further submits that there is no incriminating evidence to connect the applicants with the crime as registered. Without any cause, the applicants have been arrested and lying in jail since the month of April, 2015. He has urged for release of the applicants on bail.

3 On the other hand, learned APP for the State has supported the order passed by learned Additional Sessions Judge and

further opposed the applications with contention that investigation in the case is completed and charge-sheet is already filed on 25th June, 2015 and in view of change in circumstance, applicants can file fresh application before the Court concerned for grant of bail. So far as merit of the case is concerned, learned APP submits that there is evidence to connect the applicants with commission of offence as registered against them.

4 Having regard the submissions advanced and perused the report submitted by the Investigating Officer, I am of the view that the matter needs to be considered on merits by trial Court in view of change in circumstance i.e. filing of charge-sheet during the pendency of present applications. The earlier bail applications filed by applicants were rejected for the reason that the investigation was in progress. Since the charge-sheet is filed, it is not desirable for this Court to decide the application on merit, without the application being made and matter is heard and decided by the Court concerned on due consideration of evidence gathered by prosecution to connect the applicants in commission of offence.

5 Perusal of the reports produced on record reflect that investigation is already completed in the matter. Applicants are in jail since the month April, 2015. Therefore, the question of custodial interrogation of applicants is no more survives in the matter. In view of change in circumstance, it is desirable that the trial Court should consider the bail application on merits and also to take into consideration the nature of dispute between the parties. I am, therefore, not dealing with the submissions advanced as to merit of the matter. Instead of disposing the applications on merit, I am inclined to

grant liberty to applicants to file fresh application before trial Court.

6 In view of above, both the applications are disposed of with direction to applicants to move the concerned Court i.e. Court of Metropolitan Magistrate, 9th Court, Bandra, Mumbai by filing fresh application for bail in view of change in circumstance i.e. filing of charge-sheet. The learned Magistrate is directed that in case such application is filed, same be heard and disposed of as expeditiously as possible within one week from filing of such application.

7 Parties to act on the basis of authenticated copy of this order.

[V. L. ACHLIYA, J.]