**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**NAGPUR BENCH, NAGPUR**

**Criminal Application [ABA] No.674 of 2014**

***(Yogender Singh s/o Ranjeet Singh and another***
***vs.***
***The State of Maharashtra, through P.S.O., Butibori, District Nagpur)***

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the trial Court by filing an application before the Sessions Judge, Nagpur. The said application was opposed only on the ground that the applicants may be the purchasers of the iron angles and they might have kept those angles in their possession. He then submits that on presenting the material before the learned trial Court, even the trial Court was of the opinion that the applicants are neither courier of the material nor they were engaged with any contract or entrustment of the alleged material. He further submits that only on the statement of one co-accused, the applicants are tried to be implicated in the offence.

The learned A.P.P. vehemently opposes the application. She submits that the custodial interrogation of the applicants would be necessary on the backdrop of the fact that the property involved in the present offence is worth of more than rupees one crore. She further submits that the transaction is between two States namely the State of Maharashtra and the State of Gujarat. She also submits that without the custodial interrogation of the applicants, it will not be possible for the investigating agency to arrive at a just conclusion and proper investigation. The learned A.P.P. also made available the material collected by the agency.

On the backdrop of the reply filed by the State and the material collected by the investigating agency, it seems that the main ground of opposition for the prayer is the statement of

the co-accused. The perusal of the reply filed by the State refers to that statement, though it is not necessary at this stage to disclose the details of the material collected by the investigating agency. Suffice to say that even the reference to that statement is disclosure of ambiguous facts. The report lodged to the police station is at the instance of Manager of the firm viz. M/s. Super India Trailer Services, Nagpur. The sum and substance of the report is, the company was entrusted with delivery of certain articles and was a commission agent for the said transaction. The allegations reflect that the driver of that commercial vehicle engaged by the company, in stead of dispatching the material to the destination, expected to mislead the company. The company apprehending a foul play approached the Police Station and lodged the report.

On perusal of the material collected by the agency, I find considerable merit in the submission of the learned Counsel for the applicants. The material revolves around on a confessional statement of the co-accused. The lodgement of the report is somtime in the month of September, 2014 and the applicants approached this Court in the month of December, 2014. The material collected by the investigating agency shows no positive role of the applicants in connection with the alleged crime. It will be interesting to note that this Court by order dated 26/12/2014, while granting *ad interim* protection, gave

liberty to the investigating agency to call the applicants for cooperation in the investigation as and when the agency thought it fit. The instructions submitted by the learned A.P.P. reveal that the applicants were called upon by the investigating agency only in the last week. The learned A.P.P. fairly submits that on issuing notice to the applicants, the applicants attended the police station and the statement of the applicants are also recorded.

Considering the above referred facts, in my opinion, the learned Counsel for the applicants has made out a case. The apprehension of the State can be taken care of by imposing the conditions on the applicants to assist the investigating agency.

In the result, the application is allowed. The interim order passed by this Court on 26th December, 2014 is confirmed on further condition that the applicants to attend Butibori Police Station, District Nagpur on third and fourth Sunday of this month and thereafter on every second and fourth Sunday of the month between 09:00 a.m. to 01:00 p.m. till filing of the charge-sheet.

The application is disposed of as such.

**JUDGE**

**sdw*