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

CRIMINAL APPLICATION NO.1 OF 2016

1. Bajrang s/o Bhima Aade,
2. Arjun s/o Bajrang Aade,
3. Hanumant s/o Bajrang Aade ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr S.J. Salunke, Advocate for applicants;
Mr S.Y. Mahajan, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 29th January, 2016

ORDER :

By the present application under section 439 of the Code of Criminal Procedure, the applicants seek their release on bail, in connection with C.R. No.180 of 2015, registered with Police Station, Majalgaon (Rural), Dist. Beed, for offences punishable under sections 302 and 201 of the Indian Penal Code.

2. Applicants no.2 and 3 are the sons of applicant no.3, who are residents of Banjara Nagar, Majalgaon.

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3. The prosecution story against the applicants is that when one Bhaskar Jadhav visited the field owned by one Jagannath Kulkarni, which he was cultivating on contract, noticed body of unknown person, resulting into registration of the instant crime.

4. During the investigation, the body was identified by Sundarabai, wife of deceased Bhimrao Dhauji Aade. Sundarabai then named the present applicants as suspects of commission of the crime in question.

5. While trying to make out a case for grant of bail, Mr Salunke, learned Counsel appearing on behalf of the applicants would urge that the applicants are entitled to be released on bail on the ground that they were arrested on 20th November, 2015 and were subjected to police custody remand. It is for last about two months, nothing incriminating could be noticed by the investigating agency against the applicants herein. He would then urge that false implication of the applicants cannot be ruled out, on account of indifferences between the complainant and the applicants.

6. In order to substantiate his case, learned Counsel has invited attention of this Court to the contents of the first information report in C.R. No.78 of 2015, which was registered at the behest of the daughter of applicant no.1 against Sundarabai and her relatives.

7. Learned Addl. Public Prosecutor submits that even if nothing incriminating could be noticed against the applicants, there is strong

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suspicion against them in relation to their involvement in commission of the crime in question. He submits that the investigation is at preliminary stage and release of the applicants on bail will hamper further investigation in the matter. Thus, he prayed to reject the application.

8. With the assistance, I have perused the contents of the first information reports in both above referred crimes.

9. The applicants are named as accused by Sundarabai merely on suspicion. The investigation papers do not depict direct involvement or any incriminating circumstances against the applicants. The applicants were detained and subjected to custodial interrogation, however, nothing could be noticed against them during the said period and no discovery under section 27 of the Evidence Act could be noticed.

10. It is, no doubt, true that at the behest of the daughter of applicant no.1, complainant Sundarabai is an accused in C.R. No.78 of 2015, registered on 15th August, 2015. In this background, false implication of the applicants cannot be ruled out. It is required to be noted that though sufficient period had elapsed after detention of the applicants on suspicion, the prosecution has not brought on record any material, so as to believe the suspicion to be true.

11. In view thereof, in my opinion, the applicants deserve to be released on bail. I, therefore, pass following order :-

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The applicants be released on bail, in connection with C.R. No.180 of 2015, registered with Police Station, Majalgaon (Rural), Dist. Beed, for offences punishable under sections 302 and 201 of the Indian Penal Code, on each of them furnishing P.R. Bond of Rs.10,000/- with one surety in the like amount.

The applicants shall not enter village Ghalatwadi, Taluka Majalgaon, Dist. Beed, till filing of the charge-sheet.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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