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

CRIMINAL APPLICATION NO.382 OF 2016

Deelip s/o Santukrao Khomne ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr D.B. Thoke, Advocate for applicant;
Mr S.Y. Mahajan, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 3rd February, 2016

ORDER :

Heard learned Counsel appearing on behalf of the applicant and learned Addl. Public Prosecutor.

2. By the present application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.248 of 2015, registered with Kadim Jalna Police Station, Jalna, for offences punishable under sections 120-B (2), 465, 471 and 380 of the Indian Penal Code.

3. The incident is alleged to have taken place during the period between 6th February, 2015 and 26th March, 2015, for which first information report came to be lodged on 29th October, 2015.

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4. Learned Counsel appearing on behalf of the applicant would urge that the first information report depicts various events and for the event that took place on 5th February, 2015, the applicant was already granted pre-arrest bail and charge-sheet in the matter is filed. Learned Counsel then would urge that the applicant is permanent resident of Mumbai and upon perusal of the first information report as regards other issues, there are hardly any allegations against the applicant.

5. According to the learned Counsel, the applicant is a cancer patient and is no way concerned with the alleged offence and as such, is entitled for protection. He would then urge that the fact remains that the complainant is in possession of the suit shop, for which there is a *status quo* order passed by the Civil Court and in view of pendency of civil dispute, the applicant is entitled for protection from this Court.

6. Learned Addl. Public Prosecutor has opposed the application on the ground that the applicant is *prima facie* involved in the crime in question. He would then urge that there was a detailed inquiry by the Addl. Superintendent of Police, Jalna, in which the complainant has alleged certain biased/*mala fide* approach on the part of the Investigating Officer, wherein there are certain issues which are noticed against the present applicant. He, therefore, prays for rejection of the application.

7. Perused the report submitted by the Addl. Superintendent of Police, Jalna and the contents of the first information report.

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8. The fact remains that there are no specific attributions against the applicant as regards commission of present crime and in an earlier offence, the applicant is already released on pre-arrest bail.

9. There exists a civil dispute, which is pending before the competent civil court, in which the learned Civil Court has granted *status quo*, by virtue of which the complainant remained in possession of the said property.

10. Perusal of the report of the Addl. Superintendent of Police coupled with the statement given by the Bank official depicts that the stock claimed to have been in possession of the complainant, was not verified.

11. In the above background, in my opinion, the applicant has made out prima facie case for his release on pre-arrest bail. Thus, the following order :-

In the event of arrest of the applicant, in connection with C.R. No.248 of 2015, registered with Kadim Jalna Police Station, Jalna, for offences punishable under sections 120-B (2), 465, 471 and 380 of the Indian Penal Code he be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall attend the concerned police station initially

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during the period from 15th to 18th February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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