

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

CRIMINAL APPLICATION NO.425 OF 2016

Rustumrao s/o Jayaji Dole,
Age: 59 years, Occ: Retired,
R/o. Garkheda, Tal. Jafarabad,
District Jalna.

...Applicant

versus

The State of Maharashtra & anr.

...Respondents

WITH

CRIMINAL APPLICATION NO.201 OF 2016

Sambhaji s/o Jayram Togare,
Age: 31 years, Occ: Service (Talathi).
R/o. Pargaon, Tal. Washi,
District Osmanabad.

...Applicant

versus

The State of Maharashtra & anr.

...Respondents

.....
Mr. S.S. Choudhari, Advocate for applicants
Mr. K.D. Munde, A.P.P. for respondents
.....

CORAM : N.W. SAMBRE, J.

DATE : 4th FEBRUARY, 2016

ORAL ORDER :

Applicants are seeking pre-arrest bail in Crime No. 209 of 2015 registered on 03/12/2015 for alleged incident of 27/10/2010, 03/12/2015, with Washi Police Station, Tq. Washi, District Osmanabad, for the offence punishable under Sections 420, 465, 467, 468, 471, 474 read with Section 34 of Indian Penal Code.

2. While trying to make out case for grant of bail, learned Counsel for the applicants, submits that the applicant in Criminal Application No. 425 of 2016, who is retired Tahsildar, is retired public officer and entire record in relation to the crime in question is available in the office. He would urge that against the orders of N.A. passed in exercise of the powers under Maharashtra Land Revenue Code, the appeal was preferred by the complainant before Sub Divisional Officer and entire record is sent to the office of Sub Divisional Officer. He would then urge that the complainant has lost the said proceedings and record is with the office of Tahsildar, Washi.

3. In Criminal Application No. 201 of 2016, the contention of the applicant, who is Talathi, he being public servant, acted on the basis of N.A. orders passed by Tahsildar and has taken entry in other rights column in revenue record. According to learned Counsel for the applicants, the applicants have acted in compliance with N.A. orders and Tahsildar has passed order in accordance with M.L.R. Code. According to him, the applicants are available for investigation and custodial interrogation of the applicants is not necessary, as record in the matter is available in the office.

4. Learned A.P.P. has tried to prevail upon this Court for

rejection of the applications on the ground that there are two N.A. orders passed in same case, one on 22/03/2011 and another on 13/04/2011. He would then urge that the record in the matter is not traceable. According to him, custodial interrogation of the applicants is necessary.

5. Perused the investigation papers. Though learned A.P.P. was right in pointing out that there are two orders of granting N.A. permission are on record, however, two orders deal with separate area and not same area. Apart from above, learned Counsel for the applicants has pointed out about dismissal of appeal preferred by the complainant by Sub Divisional Officer against the order of N.A. This Court is of the view that the entire record is available with revenue office and applicant No. 1 has already stood retired. Both the applicants, as such, being public servants, are available for investigation, hence needs to be protected. Both the applications are allowed. Hence, the following order:-

In the event of arrest, the applicants be released on bail, in connection with Crime No. 209 of 2015 registered with Washi Police Station, Tq. Washi, District Osmanabad, for the offence punishable under Sections 420, 465, 467, 468, 471, 474 read with Section 34 of Indian Penal Code, upon executing P.R. bond of

Rs.15.000/- with one surety in the like amount, by each of them.

[N.W. SAMBRE, J.]

Tupe/04.02.16