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

CRIMINAL APPLICATION NO.519 OF 2016

1. Vijay s/o Rupchand Chavan,
2. Sandeep s/o Babu Chavan ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr Swapnil A. Deshmukh, Advocate for applicants;
Mr K.D. Munde, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE :1st February, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicants are seeking their release on pre-arrest bail, in connection with C.R. No.271 of 2015, registered with police station, Chikalthana, Dist. Aurangabad, for offences punishable under sections 394, 325, 143, 147, 148, 149, 323 and 504 of the Indian Penal Code.

2. The incident is alleged to have taken place on 10th December, 2015, for which the first information report came to be lodged on 17th December, 2015.

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3. It is claimed by the applicants that apart from unexplained delay in lodging the first information report, the fact remains that there exists a dispute between the applicant and the complainant *qua* sale of immovable property. He would then urge that the complainant, so as to avoid responsibility of execution of sale deed, though part consideration was received by him, the applicants are impleaded as accused in a false crime. Apart from above, according to the applicants, their custodial interrogation is not necessary.

4. Learned Addl. Public Prosecutor submits that the complaint lodged by the applicants speaks of variance of the story with which they have come out. According to him, the applicants have even attributed malice against the Investigating Officer.

5. According to the learned Addl. Public Prosecutor, custodial interrogation of the applicants is necessary, in view of the role attributed to them in the first information report.

6. Perused the first information report. It is, no doubt, true that the first information report speaks of certain attributions as regards assault and removal of Rs.60,000/- and two cheques, however, if the said event as narrated in the first information report is considered in the light of the undisputed fact as regards the sale transaction that was agreed between the complainant and the applicants, in my opinion, false implication of the applicants cannot be ruled out. There is no explanation as to why there is

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delay in lodging the first information report.

7. In that view of the matter, in my opinion, the applicants are entitled for pre-arrest bail. I, therefore, pass the following order :-

In the event of arrest of the applicants, in connection with C.R. No.271 of 2015, registered with police station, Chikalthana, Dist. Aurangabad, for offences punishable under sections 394, 325, 143, 147, 148, 149, 323 and 504 of the Indian Penal Code, they be released on bail, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicants shall attend the concerned police station, initially from 8th to 11th February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

The applicants shall keep themselves away from the jurisdiction of the concerned police station till filing of the charge-sheet.

The applicants shall deposit costs of Rs.1,000/- with the Library of Advocates' Association of Bombay High Court at Aurangabad, for supplying incorrect typed copy of the first information report, within one week from today.

The observations made herein above are *prima facie* in nature.

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Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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