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

CRIMINAL APPLICATION NO.1239 OF 2016

1. Suresh s/o Santukrao @ Shankarrao Bhondve,
2. Sudhir s/o Manikrao Bhondve,
3. Suryakant s/o Ramrao Dombे ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr S.J. Salunke, Advocate for applicants;
Mr A.S. Shinde, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 1st March, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicants seek their release on bail, in connection with C.R. No.130 of 2015, registered with police station, Bori, Dist. Parbhani, for offences punishable under sections 307, 324, 143, 147, 148, 149 and 504 of the Indian Penal Code.

2. At the outset, learned Counsel appearing on behalf of the applicants, upon instructions, does not press the application for and on behalf of applicant no.1 Suresh and applicant no.2 Sudhir. Thus, the application to their extent, stands dismissed as withdrawn.

(2)

3. While trying to make out a case for grant of pre-arrest bail to applicant no.3, learned Counsel Mr Salunke would strenuously urge that at the behest of one of the accused from the group of the present applicants, C.R. No.131 of 2015 came to be registered on 4th December, 2015, for offences punishable under sections 326, 324, 143, 147, 148, 149, 336, 504 and 506 of the Indian Penal Code against the complainant and members of his group.

4. According to the learned Counsel, the background for registration of the aforesaid offence was that, pursuant to the complaint lodged by the group of the complainant in the present case, an inquiry was ordered by the Tahsildar, in the matter of running of fair price shop. It is on account of said differences, the aforesaid offences came to be registered against both the parties.

5. So far as applicant no.3 Suryakant is concerned, according to the learned Counsel, the role attributed to him is of instigation and not of active participation in the offence by use of any weapon. Therefore, there is no necessity of his custodial interrogation.

6. Learned Addl. Public Prosecutor opposed the application on the ground that the investigation is in progress and there is material available on record in relation to involvement of applicant no.3 in the crime in question. He, therefore, prayed to reject the application.

(3)

7. Upon perusal of the investigation papers and the contents of the first information report, it is noted that the fact about registration of counter first information reports against the complainant by the applicants and vice versa and registration of C.R. No.131 of 2015 against the complainant and his group and C.R. No.130 of 2015 against the present applicants, is not in dispute.

8. So far applicant no.3 is concerned, perusal of the first information report and investigation papers depicts that except the allegation of instigating the other accused, no specific role is attributed to him. It is further noted that the accused who have actively participated in the offence were arrested and subjected to custodial interrogation. In view thereof, custodial interrogation of applicant no.3 is not warranted.

9. In the background of counter first information reports and having regard to the role attributed to applicant no.3, in my opinion, it will be appropriate to grant pre-arrest bail to him. I, therefore, pass following order :-

In the event of arrest, applicant no.3 Suryakant s/o Ramrao Dombé be released on bail, in connection with C.R. No.130 of 2015, registered with police station, Bori, Dist. Parbhani, for offences punishable under sections 307, 324, 143, 147, 148, 149 and 504 of the Indian Penal Code, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

(4)

Applicant no.3 Suryakant s/o Ramrao Dombé shall attend the concerned police station on 5th and 6th March, 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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