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

CRIMINAL APPLICATION NO. 2330 OF 2016

1. Mohammad Ismail,
Age: 60 years, Occ: Household,
2. Mohammad MK @ Iqbal Mohammad
s/o Mohd. Ismaile,
Age: 32 years, Occ: Business,
Both R/o. Temple Gate,
Tal. Talcherry, Dist. Kanuur,
Kerala. ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

WITH

CRIMINAL APPLICATION NO. 2982 OF 2016

IN

CRIMINAL APPLICATION NO. 2330 OF 2016

Baban s/o Nivrutti Ghule,
Age: 42 years, Occ: Business,
R/o. Sant Bhagwanbabanagar,
Saras Nagar, Ahmednagar,
Tq. & Dist. Ahmednagar. ..APPLICANT

VERSUS

The State of Maharashtra
Through Police Station Officer
Kotwali Police Station
Ahmednagar, Dist. Ahmednagar
& anr. ..RESPONDENTS

Mr M.H. Shaikh, Advocate for applicant;
Mr S.D. Ghayal, Addl. Public Prosecutor for
respondent/State
Mr V.D. Sapkal, Advocate to assist A.P.P.

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CORAM : N.W. SAMBRE, J.**DATE : 25th July, 2016****ORDER :**

For the reasons stated in Criminal Application No. 2982 of 2016 seeking permission to assist prosecution, same stands allowed.

2. By Criminal Application No. 2330 of 2016, the applicants are seeking pre-arrest bail in Crime No. I-87 of 2016, registered with Kotwali Police Station, District Ahmednagar, for the offence punishable under Sections 420, 406 read with Section 34 of the Indian Penal Code, for the alleged incident, which took place between 9th December, 2016 to 4th March, 2016.

3. It is claim of the complainant that through Yuvraj Trading Company, Ahmednagar, the complainant has supplied onion to the applicants. The applicants have not paid consideration of onion

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to the tune of Rs.77,5000/- for transaction between 25th October, 2013 to 9th December, 2013, as such, crime in question.

4. Mr. M.H. Shaikh, learned Counsel for the applicants submits that the applicants are falsely implicated in the crime in question. According to him, the applicants are not doing business of onion but are dealing with separate commodity namely fabric etc. It is brought to the notice of this Court by learned Counsel for the applicants that other son Abdulla MK s/o. Mohd. Ismail i.e. son of applicant No.1 is dealing in opinion business and transaction in question, at the most, could be attributed to the said son Abdulla MK s/o Mohd. Ismail and not to the present applicants. He would then submit that in stale incident of 2013, the applicants are named as an accused without any connection with the crime. He would then urge that pursuant to the order passed by this Court, the applicants have attended the police station as directed and further custodial interrogation is not

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required, as the applicants are very much available for the investigation.

5. Learned A.P.P. opposed the application on the ground that the applicants have participated in the crime in question by acting in aid with the main accused Abdulla MK s/o Mohd. Ismail, who happens to be son of applicant No.1 and real brother of applicant No.2. He would then submit that looking to the mode of commission of crime, involvement of the applicants in the crime in question cannot be ruled out. He would then submit that the applicants are resident of Kerala State and since are not available for investigation, their application for bail, be rejected.

6. From the rival submissions and upon perusal of the investigation papers, it is required to be noted that the complainant has claimed that the applicants were introduced him through one Rahul Bhagat, who was managing the trading company

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namely Rahulprasad Trading Company, Agricultural Produce Market Committee, Market Yard, Pune. If the statement of Rahul Bhagat alleging involvement of the applicants in the crime in question is perused, the applicants are no way named as the persons, who have participated in the transaction in question. The said witness Rahul has specifically named Abdulla MK s/o Mohd. Ismail as main accused and not the applicants.

7. Apart from above, the transaction is of 2013 and there is hardly any role to have played by the applicants in the said crime.

8. In view thereof, the applicants are entitled to be released on bail. Hence, the following order:-

(i) In the event of arrest of the applicants, in connection with Crime No. I-87 of 2016, registered with Kotwali Police Station, District Ahmednagar, for the offence punishable under

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Sections 420, 406 read with Section 34 of the Indian Penal Code, they be released on bail, on each of them furnishing P.R. Bond of Rs.50,000/-, with two sureties in the like amount.

(ii) The applicants shall attend the concerned police station on 8th August, 2016 to 10th August, 2016 between 10-00 a.m. to 12-00 noon and thereafter as and when called by the Investigating Officer.

(iii) The applicants shall not tamper with the prosecution evidence or influence the prosecution witnesses.

9. Criminal Application No.2330 of 2016 stands allowed in above terms.

(N.W. SAMBRE, J.)

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