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

CRIMINAL APPLICATION NO. 2450 OF 2016

Abdulla MK s/o Mohd. Ismile,
Age: 30 years, Occ: Business,
R/o. Temple Gate, Tal. Talchherri,
Dist. Kannur, Kerla. ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

WITH

CRIMINAL APPLICATION NO. 2983 OF 2016

IN

CRIMINAL APPLICATION NO. 2450 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. 2983 of 2016 seeking permission to assist prosecution, same stands allowed.

2. By Criminal Application No. 2450 of 2016, the applicant is 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. The prosecution case against the present applicant is that the complainant, trader in onion, has supplied onion to the applicant, upon assurance given by the applicant that appropriate payments will be made and the applicant has failed to honour commitment though he has received 250 tonnes of

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onion for Rs.77,5000/-.

4. This Court, pursuant to the request made by learned A.P.P., has directed the applicant to remain present before this Court on 30th June, 2016, by an order dated 13th June, 2016, as the applicant was protected by this Court.

5. On 30th June, 2016 the applicant remained absent and sought time from this Court to attend the Court on next date of hearing. On 11th July, 2016, the applicant, though earlier was granted time, remained absent, resulting into vacation of interim relief.

6. Pursuant to State Amendment to Section 438 of the Code of Criminal Procedure, once directed by this Court, upon request made by learned A.P.,.P., it was incumbent on the part of applicant to remain present before this Court during final hearing of the application. Though this Court has shown indulgence at the behest of the applicant by

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granting him accommodation, the applicant by remaining absent has shown disrespect and disregard to the orders of this Court.

7. In this back ground, learned Counsel for the applicant submits that the applicant is entitled to be released on bail, as transaction in question is a purely contractual one and non honouring terms of the contract, if at the most, attracts to recovery suit or civil dispute and the applicant's custodial interrogation, according to him, is not required. He would then submit that for stale incident of 2013, the applicant is falsely implicated in the crime in question. He would submit that the applicant be released on bail.

8. *Prima facie*, this Court should consider the claim of the applicant for releasing him on bail looking to the fact that the transaction is of 2013, however, it is required to be noted that though sufficient opportunity and chance was given

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to the applicant to show his bonafide by remaining present before this Court, the applicant has opted to remain absent and shown disrespect to the orders of this Court. The said conduct of the applicant depicts that he has no respect for the Court process and the orders.

9. The said act on the part of the applicant speaks of his criminal mind and intention to commit crime in question.

10. The transaction in question as is investigated depicts *prima facie* involvement of the applicant in the crime in question, even though crime as has been alleged appears out of commercial transaction.

11. Apart from above, it is required to be noted that the applicant is involved in three crimes i.e. C.R. Nos. 106 of 2015, 39 of 2014 and 17 of 2014 registered at Nandgaon Police Station, District Nashik, Manchar Police Station, District

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Pune and Market Yard Police Station, District Pune for the offence punishable under Sections 420, 406, 409, 507, 323, 504 read with Section 34 of the Indian Penal Code.

12. The statement of witness Rahul speaks of voluminous about involvement of the applicant in the transaction and there is sufficient material depicting involvement of the applicant in the crime in question.

13. In view of above, no case for grant of pre-arrest bail is made out. As such, the application fails, same stands rejected.

(N.W. SAMBRE, J.)

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