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

CRIMINAL APPLICATION NO. 2646 OF 2016

Jawed Wahed Khan

..APPLICANT

VERSUS

The State of Maharashtra & anr.

..RESPONDENTS

WITH

CRIMINAL APPLICATION NO. 2511 OF 2016

1. Shaikh Abdul Jafar s/o
Abdul Rashid,

2. Sk. Naim Yunus

..APPLICANTS

VERSUS

The State of Maharashtra & anr.

..RESPONDENTS

Mr H. F. Pawar, Advocate for applicants;
Mr S. Y. Mahajan, Addl. Public Prosecutor for respondents

CORAM : N.W. SAMBRE, J.

DATE : 6th June, 2016

ORDER :

The applicants in both the applications are seeking their release on pre-arrest bail, in connection with the Crime No. 0163 of 2016, registered at City Chowk Police Station, Dist. Aurangabad, for the offences punishable under Sections 420, 467, 468, 471, 474, 379, 427, 380 and 454 read with Section 34 of the Indian Penal Code.

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2. Heard Mr Pawar, learned Counsel appearing on behalf of the applicants at length. He took me to the sale deed, as was executed by the owner of the property bearing Sheet No. 21 and 44 out of City Survey No. 7649, bearing Municipal House No. 1-27-59/3, total area 447.3 Sq. Mtrs., out of which 198.82 Sq. Mtrs area was sold by the registered sale deed executed on 31st December, 2001. He would then invite my attention to the registered power of attorney dated 16th September, 2015 and subsequent sale deed executed by the power of attorney holder in favour of present accused persons on 29th October, 2015, in relation to area 1426 Sq. fts. out of the above referred property.

3. He would then submit that, even if it is presumed that there is some dispute in relation to boundaries, the same cannot lead to commission of the crime in question. According to him, the custodial interrogation of the applicants is not necessary as the dispute is civil in nature and all the documents were handed over to the Investigating Agency. According to him, the applicants undertake to submit the original title deeds for the purpose of verification of the same, to the Investigating Officer so as to co-operate in investigation. He would then submit that applicants shall abide by such conditions as may be imposed by this Court.

4. Mr Mahajan, learned Additional Public Prosecutor would submit that, in view of boundary dispute between the earlier purchaser of the part of the property in 2001, there are various non-cognizable cases registered and there is law and order problems between applicants and the owner, who

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has purchased the part of property in 2001. He would then submit that, prima facie, involvement of the applicants in crime in question is apparent and their custodial interrogation is necessary.

5. Upon perusal of the investigation papers and documents as are brought on record, prima facie, it appears that the dispute in question, is of civil nature and it shall be open to the respective parties to file their dispute/s before the competent Court. The complainant, instead of taking up that remedy as regards civil dispute, has proceeded to approach the police authority.

6. Apart from above, the fact remains that the applicants have purchased total area of 1426 Sq. fts. of land for valuable consideration of Rs. 20,00,000/-, as is apparent from the contents of the sale deed. The nature of use of the property, as is mentioned is not in dispute i.e. for residential purpose.

7. The fact remains that the applicants have already undertaken to co-operate with the Investigating Agency.

8. In the above background, in my opinion, the application needs to be allowed and the applicants are entitled to be released on bail. Hence I pass following order :-

(4)

In the event of arrest, the applicants be released on bail, in connection with the Crime No. 0163 of 2016, registered at City Chowk Police Station, Dist. Aurangabad, for the offences punishable under Sections 420, 467, 468, 471, 474, 379, 427, 380 and 454 read with Section 34 of the Indian Penal Code, upon their furnishing P.R. Bond of Rs 15,000/-, with one surety in the like amount by each of them.

They Shall attend the concerned police station, as and when called by the Investigating Officer.

Both the Criminal Applications stand allowed in the above terms.

(N.W. SAMBRE, J.)

sjk