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

CRIMINAL APPLICATION NO.2987 OF 2016

1. Anup Kumar s/o Shri Bhimsen,
2. Praveenkumar s/o Omprakash,
3. Pradeepkumar s/o Shri Omprakash ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr R.V. Gore, Advocate for applicants;
Mr S.Y. Mahajan, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 20th June, 2016

ORAL ORDER :

Learned Counsel appearing on behalf of the applicants, while trying to make out a case for grant of pre-arrest bail, would urge that the applicants are falsely implicated in the crime in question, as according to him, the dispute as is narrated in the first information report is purely a contractual dispute and could be adjudicated upon by Civil Court. According to him, there is inordinate delay in lodging the first information report, as the incident in question of supply of steel is of the year 2009, whereas the first information report came to be lodged in 2016, i.e. after a period of eight years, for which no convincing reason is mentioned. According to him, the recovery is sought to be carried out by filing first information report in question.

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2. Learned Addl. Public Prosecutor submits that custodial interrogation of the applicant is necessary in view of the crime alleged in the first information report. It is alleged that there is sufficient documentary evidence on record to infer *prima facie* involvement of the applicants in the crime in question.

3. Learned Addl. Public Prosecutor also submits that the applicants have not co-operated in the investigation as they have failed to attend the Investigation Officer as directed by the learned Sessions Judge. Learned Counsel appearing on behalf of the applicants submits that the non-attendance was unintentional, in view of communication gap and undertakes before this Court that they shall attend the concerned police station, if directed by this Court and then submits that the applicants repent for such act on their part and volunteer to pay costs as mentioned herein above.

4. Learned Counsel appearing on behalf of the applicants volunteers and undertakes for and on behalf of applicants that for their default of not attending the police station as was ordered by the learned Sessions Judge while granting ad interim pre-arrest bail, they would deposit costs of Rs.50,000/- (Rs. Fifty Thousand) each, with the Library of Advocates' Association of Bombay High Court at Aurangabad.

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5. With the assistance, I have perused the investigation papers and the contents of the first information report. It is claimed that on 23rd November, 2009 the complainant had supplied certain material to the present applicants. The applicants thereafter have not paid the consideration to the complainant, which has prompted him to file the complaint. From the contents of the first information report, it is apparent that the incident is of the year 2009 for which the first information report came to be lodged in 2016. The first information report is based on the contract entered into between the applicants and the complainant. It is then required to be noted that if it is assumed that the complainant has supplied material to the applicants, there must be documentary evidence to that effect.

6. In the above background and having regard to the delayed first information report as also contractual obligation between the applicants and complainant, in my opinion, the applicants are entitled for pre-arrest bail. I, therefore, pass following order :-

In the event of arrest of the applicants, in connection with C.R. No.20 of 2016, registered with police station Chandanzira, Jalna, for offences punishable under sections 406, 420 read with section 34 of the Indian Penal Code, they be released on bail, on each of them furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

The applicants shall attend the concerned police station from 28th June, 2016 to 1st July, 2016, between 10.00 a.m. and 12noon and

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thereafter as and when directed by the Investigating Officer.

The applicants shall not tamper with the prosecution evidence or witnesses.

The payment of costs as is volunteered and undertaken by the applicants will be condition precedent for their bail.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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