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

CRIMINAL APPLICATION NO.4292 OF 2016

1. Balasaheb s/o Sadashiv Barguje,
Age : 46 years, Occ. Agril.,
2. Rushikesh s/o Sadashiv Barguje,
Age : 20 years, Occ. Agril.,
3. Sachin s/o Suresh Barguje,
Age : 25 years, Occ. Agril.
4. Vaibhav s/o Suresh Barguje,
Age : 22 years, Occ. Agril.,

All R/o Ghotavi, Tq. Shrigonda,
Dist. Ahmednagar

..APPLICANTS

VERSUS

The State of Maharashtra

..RESPONDENT

Mr R.R. Karpe, Advocate for applicants;
Mr S.D. Ghayal, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 22nd November, 2016

ORAL ORDER :

Heard.

2. The applicants apprehend their arrest in connection with C.R. No.I-300 of 2016, registered at Shrigonda police station for offences punishable under Sections 395 and 427 of the Indian Penal Code.

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3. According to the first information report dated 16th July, 2016, the informant was proceeding in his Scorpio jeep for completing a transaction in respect of Gat No.240 owned by one Suresh Sonawane and was, therefore, carrying an amount of Rs.3,50,000/- with him. On the way, he found that there was a crowd that had collected on road and hence he stopped the jeep near a J.C.B. machine. He learnt that there was some discussion going on between the financiers of said J.C.B. machine and the owner of the same. At that point of time, somebody started J.C.B. Machine, as a result of which the informant's jeep was damaged and according to him, amount of Rs.3,50,000/- was removed by some one. The present applicants are named by stating that they were discussing the matter with the financiers.

4. It is submitted on behalf of the applicants that they are not at all concerned with the offence in question. Even as per the statements made in the first information report, they were busy in discussing the matter with their financiers and some unknown persons removed the amount from the informant's jeep. It is further submitted that on making inquiries, it was learnt that Shri Suresh Sonawane was not resident of village Loni as alleged in the report.

5. The application is opposed by learned Addl. Public Prosecutor by relying upon the police papers. According to him, the applicants were present when the alleged incident took place and, therefore, it is not a case of undue implication. The J.C.B. machine is owned by applicant no.1 and,

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therefore, no case is made out to grant protection.

6. Perused the police papers. Insofar as ownership of the J.C.B. machine is concerned, it is not in dispute that same is owned by applicant no.1. While the same was being removed, there was a dash to the informant's jeep. The discussion is shown to have taken place between the applicants and the financiers in question. The presence of the informant appears to be by chance and the fact that the applicants were aware that he was carrying the said amount does not appear to be evident. *Prima facie*, it appears that as the amount of Rs.3,50,000/- was stated to have been removed from the vehicle of the informant, the present applicants have been implicated. In these circumstances and by considering the observations made in the interim order dated 4th August, 2016, I am inclined to allow the application.

7. In view of aforesaid, in the event of arrest of the applicants, in connection with C.R. No.I-300 of 2016, registered with police station, Shrigonda, Taluka Shrigonda, Dist. Ahmednagar, for offences punishable under Sections 395 and 427 of the Indian Penal Code, they be released on bail, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicants shall attend the concerned police station on 1st December, 2016 and thereafter as per directions of the Investigating Officer.

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No steps shall be taken to influence the prosecution witnesses.

The observations made in this order are only for the purposes of considering the application under section 438 of the Code of Criminal Procedure.

Application stands allowed in above terms.

(A.S. CHANDURKAR, J.)

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