IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.

Criminal Application No. 4322 of 2016

District : Aurangabad

1. Santosh Baburao Sarkar,
   Age : 37 years,
   Occupation : Business,
   Residing at A-7/3,
   Shivaji Nagar,
   Garkheda Parisar,
   Taluka & Dist. : Aurangabad.

2. Mohini Nivrutti Mhaske,
   Age : 37 years,
   Occupation : Business,
   Residing at A-7/3,
   Shivajinagar,
   Garkheda Parisar,
   Taluka & Dist. Aurangabad. .. Applicants.

versus

The State of Maharashtra
[Through the In-charge of
of Police Station,
CIDCO, District : Aurangabad]. .. Respondent.

....

Mr. A.S. Shejwal, Advocate, for applicants.

Mr. S.B. Yawalkar, Addl. Public Prosecutor, for the respondent.

....

CORAM : A.M. BADAR, J.

DATE : 24TH AUGUST 2016

ORAL ORDER:

Applicants / accused in Crime No. 483/2016, for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code, registered with CIDCO Police Station, Aurangabad, at the instance of Ujjwala Uttamrao Hiwale, by this application, are seeking pre-arrest bail.

2. Heard the learned Counsel for applicants as well as the learned Addl. Public Prosecutor for the respondent.

3. The learned Addl. Public Prosecutor submits that the order of the Sessions Court shows that by adopting similar *modus operandi*, applicants have cheated others also.

4. Perused the FIR lodged by Ujjwala Hiwale. She averred in the FIR, that applicants had provided their service to her for getting loan from the Bank and accordingly loan of Rs. 4,25,000/- came to be sanctioned. The informant further averred that out of the sanctioned amount of loan of Rs. 4,25,000/- in her favour, she was paid Rs. 1,50,000/- by applicants and she had refunded that amount to applicant no.1 Santosh Sarkar. The informant further averred that subsequently she came to know that she was made guarantor in the loan obtained by applicants and they had not refunded the amount of loan.

5. At the outset, averments in the FIR are prima facie seem to be absurd. The informant is blowing hot and cold by stating that she applied for loan and loan is sanctioned in her favour. But at the same time, she is stating that out of Rs. 4,25,000/-, she had only received Rs. 1,50,000/-.

6. Be that as it may, my attention is drawn to the application filed by the informant before the Debts Recovery Tribunal, Aurangabad, prior to lodging the FIR. In the said application, the informant has categorically stated that she stood as a guarantor for the loan taken by applicants. She further stated that she had not created any security interest in favour of creditor Bank.

7. From these events, prima facie it appears that the informant was guarantor to the loan taken by present applicants. The dispute appears to be predominantly of civil nature and it is tried to be converted into offence. On this backdrop, custodial interrogation of present applicants is not warranted.

8. Hence, I pass the following order.

(a) The Application is allowed.

(b) Applicants / accused, in the above crime, in the event of their arrest, be released on bail on their executing P.R. Bond in the sum of Rs. 30,000/- each and on furnishing one or more solvent sureties of the like amount by each of them.

(c) As a condition of this order, applicants shall attend concerned Police Station on 28th August 2016 and 4th September 2016, in between 11.00 a.m. and 01.00 p.m. and thereafter as and when reasonably called by the Investigating Officer for the purpose of investigation.

(d) Applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(e) Applicants shall not tamper with the prosecution evidence in any manner.

(f) Applicants shall not repeat commission of similar type of offences in future.

9. The Application stands disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

....