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

CRIMINAL WRIT PETITION NO. 1062 OF 2016

1. Reshami w/o Satish Khandvikar,
Age: 33 years, Occu: Household
2. Satish s/o Bhangwanrao Khandvikar,
Age: 42 years, Occu: Business

Both presently reside at
C/o. Mohd. Iqbal Mohd Ismail,
H. No. 17, Bhim Nagar,
Daulatabad, Tq. Khultabad,
Dist. Aurangabad

..PETITIONERS

VERSUS

The State of Maharashtra,
Through Police Station Officer,
Sailu, Police Station,
Tq. Sailu, Dist. Parbhani

..RESPONDENT

Mr S. V. Kurundkar, Advocate holding for Mr M. D. Narwadkar, Advocate
for petitioners;

Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 1st September, 2016

ORAL ORDER :

In C.R. No. 96 of 2016, registered with Sailu Police Station, for offence punishable under section 420 read with section 34 of the Indian Penal Code, the present petitioners are impleaded as accused, as it is claimed that House No. 7/1, area 14 x 7.5 ft. was agreed to be sold by present petitioners to the complainant vide agreement dated 30th July, 2015, after accepting the earnest money, however, without executing the sale deed, the said property was sold to one Pralhad.

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2. By way of Criminal Misc. Application No. 209 of 2016, the petitioners approached learned Sessions Judge for grant of pre-arrest bail, which came to be allowed by learned Ad hoc Additional Sessions Judge-3, Parbhani, vide order dated 12th May, 2016, the operative part whereof reads thus:-

“1. The bail petition is hereby allowed.

2. It is directed that in the event of arrest of the petitioners by the police of Sailu Police-Station, they be released on bail on executing their P.R. bond of Rs. 15,000/- (Rs. Fifteen Thousand) each with one surety of the like amount.

3. The petitioners are directed not to tamper with the evidence and shall not induce, threat or a promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

4. They shall attend in accordance of the conditions of the bond.

5. They shall not leave India, without prior permission of the Court.

6. The petitioners are directed to furnish their proper addresses to the Court along with their cell phone numbers at the time of furnishing bail.

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7. The petitioners are directed to attend the concerned Police Station, on every Monday, Wednesday, Thursday, Saturday and Sunday from 9.00 a.m. to 11.00 a.m. for the purpose of interrogation and co-operate the Investigating Officer till filing of charge sheet.

8. The petitioners are directed to maintain diary of their attendance and investigating Officer to endorse in the diary accordingly.

9. Inform the concerned Police Station accordingly.”

3. It is then required to be noted that C.R. No. 83 of 2015 is registered for offences punishable under sections 323, 364-A read with section 34 of the Indian Penal Code against the complainant in the above referred crime, i.e. C.R. No. 96 of 2016. Regular Civil Suit No. 95 of 2015 is also pending in the matter in question.

4. The petitioners claimed that since there was threat to their lives, without furnishing changed address and their mobile numbers, they shifted to following address:-

C/o. Shri. Mohd. Iqbal Mohd. Ismail,
House No. 17, Bhim Nagar, Daulatabad,
Tq. Khulatabad, Dist. Aurangabad

5. The petitioners, after order of release on pre-arrest bail, approached this Court vide Criminal Application No. 2885 of 2016, which was withdrawn on 23rd June, 2016, with liberty to approach the learned Sessions Judge. The petitioners as such, approached the Sessions

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Judge, vide Criminal Misc. Application No.334 of 2016 for relaxation of condition. The said application for relaxation of condition of attendance of police station came to be rejected by learned Sessions Judge on 19th July, 2016. Thereafter the petitioners approached this Court by way of Criminal Application No.4112 of 2016, in which this Court granted protection in their favour on 28th July, 2016. However, the same application came to be withdrawn on 11th August, 2016.

6. The petitioners as such, preferred present writ petition seeking modification/relaxation of conditions imposed vide order dated 12th May, 2015, passed in Criminal Application No.209 of 2016.

7. Having heard Mr Kurundkar, learned Counsel appearing on behalf of the petitioners at length, I do not see any reason to interfere in the earlier order, particularly order dated 11th August, 2016, passed in Criminal Application No.4112 of 2016. It is required to be noted that the said matter was heard on merits and thereafter this Court had permitted the petitioners to withdraw the application. However, it is to be noted that this Court had continued ad interim protection dated 28th July, 2016, for a period of two weeks.

8. As this Court has expressed that no interference is warranted in the present petition, a motion is made by the learned Counsel appearing on behalf of the petitioners to withdraw the petition with liberty to apply for regular bail, with a prayer for continuation of the protection ordered on 11th August, 2016.

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9. In view of the fact that the protection ordered on 11th August, 2016 was continued thereafter for a period of two weeks, in my opinion, it will be appropriate to continue the said protection for a period of two weeks from today, so as to enable the petitioners to apply for regular bail.

10. Learned Trial Court shall decide the application on its own merits, without being influenced by the observations made herein above.

11. With the above observations, Criminal Writ Petition stands dismissed as withdrawn with liberty as prayed for.

(N.W. SAMBRE, J.)

amj