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

CRIMINAL APPLICATION NO.5215 OF 2016

1. Madhukar s/o Dnyanoba Talware,
Age: 28 years, Occ: Labour,
2. Satwabai Dnyanoba Talware,
Age: 50 years, Occ: Labour,
3. Dnyanoba Kalba Talware,
Age: 50 years, Occ: Labour,
4. Raju s/o Dnyanoba Talware,
Age: 32 years, Occ: Labour,
5. Baliram s/o Jalba Gaikwad,
Age: 40 years, Occ: Labour,
6. Mahananda w/o Raju Talware,
Age: 28 years, Occ: Labour,
7. Anita w/o Baliram Gaikwad,
Age: 30 years, Occ: Labour,

All R/o. Honwadaj, Tq. Mukhed,
Dist. Nanded.

..APPLICANTS

VERSUS

The State of Maharashtra
Through Police Station
Mukhed, Tq. Mukhed,
Dist. Nanded.

..RESPONDENT

Mr G.P. Shinde, Advocate for applicants;
Mr R.V. Dasalkar, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 18th OCTOBER, 2016

ORAL ORDER :

In Crime No. 110 of 2016, the accused persons were arrested on 26th July, 2016 and 2nd August, 2016 and were released by learned Magistrate by exercising powers under Section 437(3) of Code of Criminal Procedure for an offence punishable under Sections 306, 498-A, 504, 506 read with Section 34 of the Indian Penal Code. The said order is questioned before learned Additional Sessions Judge, Nanded by the State on the ground that no power is vested to Magistrate to pass order of bail and no special reasons are recorded for releasing the accused persons.

2. It is not the case of the prosecution that the applicants have jumped bail conditions.

3. The prosecution case as appears from the first information report is the complainant's sister Jyoti was married to Madhukar about more than seven years back and it is for the demand of dowry of Rs.25,000/-, which was not fulfilled, she

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was subjected to cruelty and as such, she committed suicide.

4. Perusal of the first information report depicts that all relatives of the husband including that of his married sisters, married brothers, their wives etc., are added as accused.

5. The bail is cancelled by learned Sessions Judge by observing that no special reasons are recorded by the Magistrate. Neither any infirmity is demonstrated nor sickness of the applicants-accused persons.

6. It is required to be noted that by order, learned Magistrate has taken note of the fact that accused Nos. 2 and 3 are old aged persons. Apart from above, it is to be noted that custody of the applicants was not sought on the ground of custodial interrogation.

7. It is also not the case of the prosecution that the applicants are not available for further investigation or for trial purpose.

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8. Looking to the above aspects of the matter and having gone through the order by the Magistrate, it is required to be noted that the Magistrate has applied pursuant to sub clause (3) of Section 437 of the Code of Criminal Procedure and has ordered release. The order does contain reasons and age of the accused Nos. 2 and 3. In my opinion, learned Sessions Judge has committed error in ordering cancellation.

9. As such, the order impugned dated 29th August, 2016 passed Additional Sessions Judge, Kandhar, Link Court, Mukhed, in Criminal Revision Application No. 15 of 2016 is hereby quashed and set aside.

10. With the above observations, criminal application stands allowed.

(N.W. SAMBRE, J.)

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