

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

CRIMINAL APPLICATION NO. 5452 OF 2016

Megha w/o. Nandkishor Sonar .. Applicant
Age. 40 years, Occ. Household,
R/o. Anturli, Tq. Muktainagar,
Dist. Jalgaon.

Versus

The State of Maharashtra .. Respondent

WITH

CRIMINAL APPLICATION NO. 5484 OF 2016

1. Arun s/o. Raman More .. Applicants
Age. 32 years, Occ. Labour,
R/o. Ramchandra Nagar,
Station Road, Tq. Raver,
Dist. Jalgaon.

2. Ghanshayam Raman More,
Age. 38 years, Occ. Labour,
R/o. As above.

Versus

The State of Maharashtra .. Respondent

Mr.H.P. Jadhav h/f. Mr. A.K. Tiwari, Advocate for the
applicants.

Mr.S.B. Yawalkar, A.P.P. for respondent/State.

WITH
CRIMINAL APPLICATION NO. 5860 OF 2016
IN
CRIMINAL APPLICATION NO. 5452 OF 2016
(For assist to P.P.)

Kamlabai Sarangdhar Sonar .. Applicant

Versus

Megha w/o. Nandkishor Sonar & Anr. .. Respondents

Mr. S.P. Brahme, Advocate for the applicant.

Mr. H.P. Jadhav h/f. Mr. A.K. Tiwari, Advocate for R-1.

Mr. S.B. Yawalkar, A.P.P. for respondent/State.

CORAM : A.M. BADAR, J.

DATED : 20.10.2016

P.C. :-

1. Applicants Megha Sonar, Arun More and Ghanshayam More, who are accused in Crime No.138 of 2016 registered with Muktai Nagar Police Station, Dist. Jalgaon for the offences punishable under sections 406, 468, 420, 506, 120(B) of the Indian Penal Code, by these applications are seeking pre-arrest bail.

2. Heard learned Counsel for the applicants as well as learned A.P.P. and learned Counsel for the informant. Learned A.P.P. as well as learned Counsel for the informant argued that charge for offence punishable under

section 120(B) of the Indian Penal Code is levelled against the present applicants and their custodial interrogation is warranted because of magnanimity of the financial offence committed by accused persons. It is argued that custody of applicants before this Court is required for effective investigation of the crime in question, in which several creditors are cheated by accused persons, by seeking entrustment of their amount for business purpose by accused persons.

3. I have carefully considered the rival submissions and also perused papers of investigation including the F.I.R. lodged by Kamlabai Sonar. It is revealed from papers of investigation that the main accused Nandkishor Sonar was running a jewellery shop in the name as "Ekvira Jewellers". Statements of witness so also F.I.R. shows that he alluded several persons to give hand loan to him and also passed receipts of that hand loan in their favour. For refunding that hand-loan, main accused Nandkishor Sonar had also issued cheques to the creditors but subsequently those cheques were dishonoured. Nandkishor Sonar is reported to be absconding. Statements of creditors recorded by the investigator go to show that they had entrusted the amount to Nandkishor Sonar. Statement of investors does not show that applicants before this Court in any manner

concerned with that entrustment. They had not attended such transactions. Statement of investors/creditors shows that when they approached the jewellery shop for refund of amount entrusted with Nandkishor Sonar, he was found to be absconding. Statements are specific to the effect that after main accused Nandkishor Sonar absconded, present applicants who are his brothers-in-law and wife took over the work of Ekvira Jewellers. In this view of the matter ingredients of offence of criminal breach of trust defined by section 405 of the Indian Penal Code i.e. entrustment of property is missing so far as present applicants are concerned. Similarly as the present applicants were not reported to be present at the time of extending hand loan or accepting deposits by Nandkishor Sonar, element of deception played by them is, prima facie, absent. Amassment of property in the name of applicant Megha, who is wife of main accused Nandkishor, will have different consequence after trial.

4. In this view of the matter, custodial interrogation of the applicants in this crime is not warranted. Therefore, the order :-

O R D E R

- i. The application is allowed.

ii. Interim order dated 4th October, 2016, is confirmed on same terms and conditions.

iii. In addition, the applicants to attend the concerned police station on every alternate Sunday in between 11.00 a.m. to 01.00 p.m. till filing of the charge-sheet and should co-operate the investigator.

iv. In view of disposal of main application, Criminal Application No. 5860 of 2016 stands disposed of.

[A.M. BADAR, J.]