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

CRIMINAL APPLICATION NO.6144 OF 2016

Gulam Dastagir s/o Jaanu
Quereshi, Age: 36 years,
Occ: Business, R/o. Sanjay Nagar,
Bayjipura, Aurangabad,
Tq. & Dist. Aurangabad. ..APPLICANT

VERSUS

The State of Maharashtra
through City Chowk Police Station,
Aurangabad, Tq. & Dist.Aurangabad. ..RESPONDENT

Mr Anandsingh Bayas, Advocate h/f Mr E.S. Murge,
Advocate for applicant;
Mr R.V. Dasalkar, Addl. Public Prosecutor for the
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 1st DECEMBER, 2016

ORAL ORDER :

Heard.

2. The present applicant, who has been arrested on 24th September, 2016, seeks his release pursuant to his arrest under Crime No.411 of 2016 registered with City Chowk Police Station, Aurangabad, District Aurangabad for offences

(2)

punishable under Sections 420, 468, 470, 471, and 120(B) of the Indian Penal Code.

3. According to the complainant, on 26th September, 2012 he had entered into an agreement with one Shaikh Salim for sale of land admeasuring 17 Are from the land Gat No. 231/1. The present applicant was a witness to the said agreement. The transaction could not be completed and cheque issued by the complainant was dishonoured and for that, proceedings under Section 138 of the Negotiable Instruments Act were initiated by Shaikh Salim. Subsequently, the complainant filed private complaint against the said Shaikh Salim, present applicant and another witness for the offence punishable under Sections 420, 406, 468 and 471 of the Indian Penal Code. However that complaint came to be dismissed for want of verification. Shaikh Salim thereafter filed a private complaint against original complainant on the ground that he had been cheated in the aforesaid transaction. Process came to be issued in the said complaint.

(3)

4. The applicant herein was granted anticipatory bail pursuant to the registration of F.I.R. No.368 of 2016 lodged by the complainant for the offence punishable under Sections 420, 468, 471, 120-B of the Indian Penal Code. Thereafter another report dated 23rd September, 2016 came to be lodged by the complainant being Crime No. 411 of 2016 making reference to the earlier agreement dated 26th September, 2012 to which the present applicant was a witness. His further case was that on the basis of said agreement, another document dated 15th March, 2016 was relied upon by other accused in disposing of the said complaint. The applicant came to be arrested on 24th September, 2016.

5. It is submitted by the learned Counsel for the applicant with regard to the initial Crime, he was already granted anticipatory bail by the learned Judge of the Sessions Court by observing that the dispute was of civil nature. However

(4)

another report came to be lodged by the complainant merely by relying to earlier agreement dated 26th September, 2012. He submitted that the applicant was not witness to the subsequent document dated 15th March, 2016 but only to the agreement dated 26th September, 2012. Considering the aforesaid facts and as another co-accused – witness had been enlarged on bail, it is submitted that the applicant deserves to be released on bail.

6. The application is opposed by the learned A.P.P. by relying upon the police papers. He submitted that considering the nature of offence and as subsequent document dated 15th March, 2016 has been executed on the basis of the earlier agreement, the applicant does not deserve to be enlarged on bail.

7. Perused the first information report as well as police papers. In F.I.R. No. 411 of 2016 reference has been made to the initial agreement dated 26th September, 2012. The applicant is

(5)

witness to the said transaction. He is not shown to be a witness to the subsequent document dated 15th March, 2016. Considering the role attributed to the present applicant of being only a witness to the agreement dated 26th September, 2012 for which Crime No. 368 of 2016 has already been lodged in which he has been enlarged on anticipatory bail, I do not find any reason to continue his further detention.

8. In the aforesaid, the following order is passed :-

: O R D E R :

(i) The applicant is directed to be released on bail pursuant to his arrest in Crime No.411 of 2016 registered with City Chowk Police Station, Aurangabad, District Aurangabad for offences punishable under Sections 420, 468, 470, 471, and 120(B) of the Indian Penal Code, on furnishing P.R. bond of Rs.15,000/-, with one surety in the like amount.

(6)

(ii) The applicant shall attend the concerned police station as and when directed by the Investigating Officer.

(iii) No steps shall be taken to influence the prosecution witnesses.

9. The observations made in this order are only for the purpose of deciding present application.

10. Criminal Application is allowed in above terms and disposed of.

(A.S. CHANDURKAR, J.)

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