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

CRIMINAL APPLICATION NO.6204 OF 2016

Suresh @ Bandu s/o Haribhau Gaikwad,
Age: 45 years, Occ: Sugarcane
Transport Contractor,
R/o. Kadam Vasti, Anandgaon,
Tal. Kaij, District Beed. ..APPLICANT

VERSUS

The State of Maharashtra
Through Police Inspector,
Police Station, Palam, Tq. Palam,
District Parbhani. ..RESPONDENT

Mr R.D. Khadap, Advocate for applicant;
Mr C.V. Dharurkar, Addl. Public Prosecutor for the
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 1st DECEMBER, 2016

ORAL ORDER :

Heard.

2. The applicant, who has been arrested on
21st October, 2016 pursuant to the registration of
Crime No. 191 of 2016 registered with Palam Police
Station, Taluka Palam, District Parbhani for
offence punishable under Section 364 read with

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Section 34 of the Indian Penal Code, seeks his release under Section 439 of the Code of Criminal Procedure.

3. As per the report lodged by the brother of Gulab Jadhav, wife of Gulab Jadhav namely Yashodabai was kidnapped by the applicant and three others on the ground that despite taking the amount for undertaking sugarcane cutting operations the same had not been done. The said money was therefore demanded back. The report in question is made dated 17th October, 2016. The applicant was owner of the vehicle in which Yashodabai was taken. Thereafter, the applicant came to be arrested.

4. It is submitted by the learned Counsel for the applicant that the aforesaid report was lodged merely because the applicant and others had demanded the return of the amount of labour charges. He submitted that the provisions of Section 364 of the Indian Penal Code would not be attracted considering the fact that there was no

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intention whatsoever on the part of the applicant to commit her murder. He submitted that by imposing appropriate conditions, the applicant could be released.

5. The application is opposed by the learned Additional Public Prosecutor by relying upon the police papers. The statement of Yashodabai recorded on 21st October, 2016 has been referred to in which the present applicant has been named. He, therefore, submits that the involvement of the applicant is apparent.

6. Perused the police papers as well as the first information report. The statement of Yashodabai dated 21st October, 2016 indicates that on 17th October, 2016 she was forced to accompany the applicant and three others as the amount paid towards labour charges was not returned. She was released after four days and she has stated that she was neither harassed nor was any force of any nature exerted on her. In the light of this

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statement dated 21st October, 2016 and as the applicant is under arrest since 21st October, 2016, the applicant can be released on bail by imposing appropriate conditions.

7. In view of aforesaid, the following order is passed : -

: O R D E R :

(i) The applicant is directed to be released on bail, in connection with Crime No. 191 of 2016 registered with Palam Police Station, Taluka Palam, District Parbhani for offence punishable under Section 364 read with Section 34 of the Indian Penal Code, on furnishing P.R. bond of Rs.20,000/- with one surety in the like amount.

(ii) The applicant shall attend report to the concerned police station on 15th December, 2016 and thereafter as per directions of the Investigating Officer.

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(iii) The applicant shall not enter the jurisdiction of Palam Police Station, Taluka Palam, District Parbhani till filing of the charge sheet.

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

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

(A.S. CHANDURKAR, J.)

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