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

CRIMINAL APPLICATION NO.6446 OF 2015

Sharad S/o Narsing Bikkad ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr V. S. Undre, Advocate holding for Mr D. H. Jadhavar, Advocate for applicant;

Mr M. B. Bharaswadkar, Addl. Public Prosecutor for respondent

WITH

CRIMINAL APPLICATION NO.239 OF 2016

1. Shri. Ravji @ Kalidas S/o Balaji Kale

2. Shri. Laximan S/o Shivram Kale ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr A. N. Nagargoje, Advocate holding for Mr B. R. Jaybhay, Advocate for applicants;

Mr M. B. Bharaswadkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 17th February, 2016

ORDER :

By these applications under section 439 of the Code of Criminal Procedure, the applicants are seeking grant of bail, in connection with C.R. No.144 of 2014, registered with Bhada police station, Dist. Latur, for offences punishable under section 395 of the Indian Penal Code and under

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sections 3 (1) (ii), 3 (2), 3 (4) of the Maharashtra Control of Organised Crime Act, 1999.

2. Apart from claiming parity with accused Mahavir @ Anna s/o Sadashiv Ingle and Yuvraj s/o Ashok Uplaikar, learned Counsel appearing on behalf of the applicants would submit that the applicant is behind bars for more than two years. They have relied upon the date of arrest of the applicants for the said purpose. Learned Counsel would jointly submit that nothing is recovered from the applicants in the crime in question and the provisions of the Maharashtra Control of Organised Crime Act, 1999 are applied only with a view to detain the applicants, by forming a basis of pendency of more than one charge-sheets against the syndicate or the present applicants.

3. Learned Addl. Public Prosecutor opposed the applications on the ground that the charge in the matter is already framed and as such trial has commenced. The next submission of the learned Addl. Public Prosecutor is that there is sufficient material on record so as to infer proper applicability of the provisions of the Maharashtra Control of Organised Crime Act, 1999 against the applicants. He would then invite attention of this Court to the various offences registered against the applicants and the evidence available on record as against them.

4. With the assistance, I have perused the charge-sheet.

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5. No doubt, it is true that there are more than one charge-sheet against the applicants and attraction of the provisions of the Maharashtra Control of Organised Crime Act, 1999 is not assailed on that ground by the applicants. What is sought to be canvassed by the applicants is that they are entitled for bail, based on parity, in view of the order passed by this Court in favour of Mahavir @ Anna s/o Sadashiv Ingle and Yuvraj s/o Ashok Uplaikar on 28th October, 2015, in Criminal Application Nos.3694 of 2015 and 3493 of 2015. In addition, stress is laid on the aspect of non recovery against the applicants, coupled with the fact of their detention for more than two years in the crime in question.

6. Having regard to the fact that the applicants are detained for more than two years in the crime in question and that they have given an undertaking to the Court that they shall regularly attend the trial and shall not indulge into similar type of offences, in my opinion, it will be appropriate to enlarge the applicants on bail. I, therefore, pass following order :-

The applicants be released on bail, in connection with C.R. No.144 of 2014, registered with Bhada police station, Dist. Latur, for offences punishable under section 395 of the Indian Penal Code and under sections 3 (1) (ii), 3 (2), 3 (4) of the Maharashtra Control of Organised Crime Act, 1999, they be released on bail, on each of them furnishing P.R. Bond of Rs.25,000/- with two sureties in the like amount.

The applicants shall attend the trial regularly.

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In case if it is noticed during trial that the applicants have indulged in the similar type of crime, it shall be open for the prosecution to move for cancellation of bail granted to them, before this Court.

Criminal Applications stand allowed in above terms.

(N.W. SAMBRE, J.)

amj