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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 684 OF 2016

Behram Maneck Pardiwalla & Anr.	.. Applicants
Vs.	
The State of Maharashtra	.. Respondent

Mr. Mahesh Jethmalani a/w. Mr. Karan Kadam, Ms. Amna Usman for the Applicants.

CORAM : N. W. SAMBRE, J.
DATE : 30th NOVEMBER, 2016.

P. C. :

1. This application is filed seeking regular bail in MECR No.5/2015 registered with Azad Maidan Police Station, Mumbai for the offences punishable under Sections 408, 418, 420, 451, 452, 453, 454, 455, 465, 467, 468, 471, 474, 328, 392, 506(2) read with 34 of the Indian Penal Code.

2. It is the case of the prosecution that the applicant No.2 is son of close friend of Late Ramzan Thanawala, brother of complainant Shaban Thanawala. Shaban Thanawala filed a complaint under Section 156(3) of Criminal Procedure Code after the death of Ramzan on 15.02.2015 making serious allegations against the applicant of administering poison to cause hurt, criminal breach of trust by servant/agent, cheating, house trespass, forgery, robbery, criminal intimidation etc. resulting into

registration of the crime in question and as such the applicants came to be arrested on 11.12.2015 and after the investigation was completed, charge-sheet came to be filed on 08.03.2016.

3. It is informed at bar that the trial in the matter has already commenced as the evidence is being recorded.

4. While trying to make out a case for grant of bail, the learned counsel for the applicants submits that there are no criminal antecedents as against the applicants. The applicant No.1 is aged about 60 years, who is a Chartered Accountant by profession and is permanent resident of Mumbai and as such very much available for the trial. It is then claimed that it is out of the dispute in between applicant No.2 and complainant Shaban Thanawala, about getting control of the property of Late Ramzan, the present crime has been registered pursuant to a complaint under Section 156(3) of Criminal Procedure Code. According to the applicants, after their custodial interrogation, their further detention in the crime in question is not warranted as they are very much available for the trial. It is also claimed that even if the trial has commenced, the liberty of applicants be not curtailed as the applicants shall abide such conditions as shall be imposed by this Court. According to learned counsel the offence is not serious.

5. While opposing the application for grant of regular bail, the learned APP, who is assisted by the learned counsel for the complainant, would urge that since the trial has already commenced pursuant to the order of this Court, this Court should be slow in granting the regular bail to the applicants. According to him, there is likelihood of the applicants if released may tamper with the evidence or influence the witnesses and as such the application be rejected.

6. It is not disputed that after the custodial interrogation of the applicants, charge-sheet in the matter is filed. Applicant No.2 is raked in by the complainant who has claimed that the services of applicant No.1, Chartered Accountant was hired by applicant No.2 for the purpose of commission of crime in question.

7. What could be gathered from the contents of the FIR (complaint under Section 156(3) and other material available, the claim as sought to be put forth, particularly, as against the offence punishable under Section 328 of the IPC and the offences punishable under the other sections of the IPC viz. cheating, forgery, robbery, trespass are very much faced by the applicants as they are cooperating in the trial. Apart from the fact that the learned APP has come out with a case of likelihood of tampering the evidence. There is hardly any material to infer that the release of the present applicants on bail, in any way going to prolong the

trial or the applicants will tamper the witnesses.

8. In the above referred background, particularly, having regard to fact that the applicants are behind the bar almost for one year, in my opinion no purpose will be served in continuing their detention.

9. The applicants appear to be permanent resident of this place and it could be inferred that they are very much available for the trial.

10. In view thereof, the application needs to be allowed. The applicants be released on P.R. bond of Rs.1 lakh each with one or two sureties in the like amount. As the trial is already expedited, the applicants shall regularly attend the trial without any default and shall not seek any adjournment.

11. The applicants shall not influence the witnesses or tamper with the evidence.

12. If required and noticed that the applicants are misusing the liberty, it shall be open for the learned Court below to take out proceedings for cancellation of bail independent of the observations made hereinabove.

13. As the trial is already expedited, both the applicants shall not enter into the premises of 'Roxana Building' situated at M. K. Marg, Churchgate, Mumbai-400 020.

14. The bail application stands allowed.

[N. W. SAMBRE, J.]