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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.678 OF 2016**

1. Dilkhush Kiritkumar Trivedi	
2. Dhansukh Kiritkumar Trivedi	...Applicants
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO.369 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.678 OF 2016**

Kiritkumar Kantilal Trivedi	...Intervener
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IN THE MATTER BETWEEN

Dilkhush Kiritkumar Trivedi and Anr.	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr.P.G.Sarda, for the Applicants

Ms.Veera Shinde, A.P.P for the Respondent-State

Mr.Pawan Mali i/b Mr.K.P.Mali, for the Intervener.

***CORAM : REVATI MOHITE DERE, J.
DATE : 2nd MAY, 2016***

P.C. :

1. Heard learned Counsel for the applicants, learned counsel for

the intervener and the learned A.P.P.

2. By this application, the applicants seek pre-arrest bail in connection with C.R. No.169 of 2016 registered with the Hadapsar Police Station, Pune, for the alleged offences punishable under Sections 328, 342, 380, 504 r/w 34 of the Indian Penal Code.

3. The applicants are the sons of the complainant. According to the complainant, the incident took place on 24th June, 2015 at about 10.00 p.m. He has alleged that on the aforesaid date and time, he had a glass of water, as a result of which he became unconscious, pursuant to which the applicants committed theft of the articles from his house. He has alleged that when he regained consciousness, he found that his LCD T.V, Videcon Dish Set Top Box, utensils, cheque books, medical papers and an amount of Rs.35,700/- were missing and on making enquiry with the watchmen of the building, he learnt that the applicants and his wife had gone in one car and one activa scooter. Pursuant to the same, a private complaint was lodged by the complainant. The learned Magistrate was pleased to pass an order under Section 156(3) of the Code of Criminal Procedure, pursuant

to which the aforesaid FIR came to be lodged.

4. Learned Counsel for the applicants submitted that the applicants are well placed and well educated and there was no reason for them to commit the aforesaid offence. He submitted that infact the complainant has retired from service and that the present applicants were looking after the needs of the complainant. He submitted that infact all the articles of which theft is alleged, were purchased by the applicants and hence Section 380 of the Indian Penal Code is not attracted. He further submitted that in the house search, which was conducted, nothing was found and that some of the articles have already been deposited in the police station, by the applicants. He submitted that as the complainant's conduct was abnormal, the applicants decided to reside separately from the complainant along with their mother. He further submitted that the applicant no.1 has lodged an NC against the complainant on 25th June, 2015 and the mother of the applicants has also lodged an NC against the complainant on 10th September, 2015, and as a counter blast, the present complaint has been filed.

5. Learned APP has tendered the statement of the mother of the applicants. She submitted that in the house search that was conducted, no articles were found. She further submitted that certain articles have been deposited by the applicants in the police station.

6. Learned Counsel for the intervener also opposed the bail application. He submitted that the applicants' mother is suffering from Schizophrenia and hence her statement is not material. He submitted that the applicants have not deposited the complainant's cheque books, some utensils and Videocon Dish Set Top Box.

7. Perused the papers, more particularly the statement of the applicant's mother - Naina Trivedi. According to the applicants mother, considering the abnormal behaviour of the complainant, she was put under a lot of stress and harassment, pursuant to which she was required to take treatment. She had stated that on 24th June, 2015 the complainant had thrown her and the applicants out of the house and had threatened even to kill them. She had stated that the complainant had asked the applicants and her to carry along with them the LCD TV, Videocon Dish Set Top Box,

Activa Scooter and Car and other items. She had stated that they had not taken any cheque books or any amount as stated by the complainant. She had further submitted that the statement is given by her on her own free will and without any coercion. Prima-facie, there appears to be a family dispute. Some of the articles which were allegedly taken have been deposited by the applicants in the police station. As far as Videocon Dish Set Top Box is concerned, there is a dispute with regard to the purchase of the same. According to the applicants, they had purchased the same, whereas, according to the complainant, it belonged to her. As far as cheque books are concerned, the complainant can always approach the bank and apply for stop payment of the said cheques.

8. Considering the aforesaid, the application is allowed and the applicants are granted anticipatory bail on the following terms and conditions:-

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.10,000/- each with one or two sureties in the like amount ;

(ii) The applicants shall attend the concerned Police Station, as and when called for.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

11. In view of the disposal of the Anticipatory Bail Application No.678 of 2016, the Intervention Application being Criminal Application No.369 of 2016 does not survive and the same is also disposed of.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.