

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

CRIMINAL APPLICATION NO. 2105 OF 2017

Shaikh Raju s/o Shaikh Maheboob
and others ... Applicants

VERSUS

The State of Maharashtra ... Respondent

.....
Mr. P.P.More, advocate for the applicants
Mr. S.B.Joshi, A.P.P for respondent
.....

CORAM : K.L.WADANE, J.
DATED : 12th JUNE, 2017

O R D E R :

Heard learned counsel for the applicants
and learned A.P.P. for respondent/State.

2. This is an application filed under the provisions of Section 438 of the Criminal Procedure Code in connection with Crime No. 13 of 2015 registered with Parli Rural police station, District Beed on 26.1.2015 for the offences punishable under Section 468, 471 r/w 34 of the Indian Penal Code.

3. Mr. More, learned counsel appearing for the applicants submits that there is civil dispute

between the parties. The complainant has executed an agreement for sale of the landed property. He has accepted Rs. 10,10,500/- and subsequently refused to perform his part of contract. Therefore, applicant nos. 1 and 2 have issued notice for performing his part of contract. Applicant nos. 1 and 2 have also filed suit for specific performance, in which original agreement of sale is submitted.

4. As against this, learned A.P.P. submits that custodial interrogation of the applicants is required, as false documents i.e. agreement of sale, etc. are produced by the applicants on record.

5. Perused the papers i.e. agreement for sale, notice issued by respondent nos. 1 and 2, application dated 12.11.2014, etc. It appears that there is civil dispute between the parties. The alleged offence took place on 20.1.2015. Till today, the investigating officer has not taken efforts to arrest the applicants. Original agreement for sale is produced by respondent nos.

1 and 2 in the court in support of suit for specific performance.

6. Looking to the nature of accusation and the dispute of civil nature between the applicant nos. 1 and 2 and the complainant and applicant nos. 3 and 4 are witnesses for the alleged agreement for sale, applicants are entitled for anticipatory bail.

7. Hence, Criminal Application is allowed.

(i) In the event of their arrest, the applicants be released on bail in connection with Crime No. 13 of 2015 registered with Parli Rural police station, District Beed on 26.1.2015 for the offences punishable under Section 468, 471 r/w 34 of the Indian Penal Code on furnishing P.R. bond of Rs. 15,000/- with one surety in the like amount.

(ii) Applicants shall not tamper the evidence of prosecution in any manner and shall cooperate in further investigation.

(iii) Applicants shall give their specimen hand writing and signature to the investigating

officer, if required.

(iv) Criminal Application is disposed of.

(K.L.WADANE, J.)

dbm/crap2105.17