

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

14 CRIMINAL APPLICATION NO. 3439 OF 2017

ANIL S/O. JAGDISH AGRAWAL
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mrs. Rashmi S. Kulkarni.
APP for Respondent : Mr. A. P. Basarkar.
Advocate to assist APP : Ms. Monica Dhat.

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CORAM : **V. K. JADHAV, J.**
DATE : 28th August, 2017.

P.C.:

. The learned counsel for Applicant has placed on record the judgment and order passed by the Division Bench of this Court in Criminal Application No.3077 of 2017 filed by the present Applicant. The present Applicant has filed the said criminal application under Section 482 of the Code of Criminal Procedure for quashing of FIR registered as C.R. No.418 of 2017 at CIDCO Police Station, Aurangabad. In paragraph No.9 of the judgment, the Division Bench has observed that neither Section 420 nor Section 406 of the Indian Penal Code would be attracted in the given set of allegations. However, in paragraph No.12 of the judgment, the Division Bench has observed that the act of the present Applicant / original Accused No.2 falls under the definition of forgery under Section 463 punishable under

Section 465 of the Indian Penal Code.

2 The learned counsel for Applicant submits that the offence of forgery under Section 463 is made punishable under Section 465 of the Indian Penal Code with the imprisonment, which may extend to two years or with fine. The learned counsel submits that Section 465 of the Indian Penal Code is bailable and non-cognizable offence.

3 In view of the above, this criminal application seeking pre-arrest bail loses its significance. The Applicant may approach the learned Magistrate for seeking regular bail. The learned counsel for the Applicant, however, submits that the interim pre-arrest bail may be extended for a further period of two weeks since there is an apprehension in the mind of the Applicant that he would be arrested by the Investigating Officer in connection with the present crime. Since the offence punishable under Section 465 is non-cognizable and bailable one, the Investigating Officer cannot effect the arrest of the Applicant without the permission of the Magistrate and in case if the arrest is effected, he is bound to release the Applicant on bail.

4 The criminal application is accordingly disposed of.

[V. K. JADHAV, J.]