

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 81 OF 2015
Shyam Shyamlan PillaiApplicant
V/s.
The State of MaharashtraRespondent

WITH
CRIMINAL APPLICATION NO. 146 OF 2015
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 81 OF 2015

Ferring Therapeutics Pvt. Ltd.Intervener

IN THE MATTER BETWEEN

Shyam Shyamlan PillaiApplicant
V/s.
The State of MaharashtraRespondent

Mr. Shreenath i/b Law Global Advocates for Applicant
Mr. Ganesh Sovani for Intervener
Ms. S. S. Kaushik APP for the State.
Mr. G. K. Katakdhond A.S.I. Shivaji nagar, Police Station

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 31st JULY 2015

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 191 of 2014 registered at Shivaji Nagar Police Station for offence punishable under section 379 r/w 34 of Indian Penal Code. Intervention application is

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heard, allowed and disposed of.

2) By an order dated 20/01/2015, applicant was granted interim relief by this Court (Coram: P. D. Kode, J.) (Retired). Hon'ble Court had directed the applicant to cause his attendance before Investigating Officer every alternate day between 11.00 a.m. to 01.00 p.m. On 03/02/2015, it was brought to the notice of the Court that applicant had not abided by the conditions imposed upon him and therefore, applicant was directed to file an affidavit. No affidavit was filed. Matter was adjourned to 06/02/2015 upon mentioning and interim protection was continued on same terms and conditions. Matter was adjourned at the request of learned counsel for the applicant to 10/02/2015. On 10/02/2015, learned counsel for the applicant had sought time to file affidavit. On 16/02/2015, at the request of learned counsel for the applicant, matter was adjourned and interim relief was directed to be continued. Same was the position on 20/02/2015, as well as 27/02/2015, 05/03/2015, 25/03/2015, 15/04/2015, 30/04/2015. Affidavit was filed on 10/04/2015.

3) On 09/06/2015, matter was adjourned at the request of learned APP. This Court had directed the applicant to report to the police station on 12/06/2015, 13/06/2015 & 14/06/2015 between 11.00 a.m. to 01.00 p.m. and

co-operate with the investigating agency. On 18/06/2015, learned counsel for the applicant, upon instructions from the applicant had submitted before this Court that applicant could not comply with the order dated 09/06/2015 for the reason that father of the applicant was suffering from paralytic stroke and was at Kerala. It was submitted that applicant could not be contacted for want of cellphone no. and proper address in order to communicate the order dated 09/06/2015. It was further submitted that learned counsel could contact the applicant only on 17/06/2015. This Court, upon considering that learned counsel could not contact the applicant and moreover on humanitarian grounds, was pleased to extend the interim relief on the condition that applicant shall present himself before the concerned police station on 25/06/2015, 26/06/2015, 27/06/2015 between 10.00 a.m. and 01.00 p.m.

4) Learned APP has filed report from Shivaji Nagar Police Station showing that applicant has not abided by the conditions imposed vide order dated 18/06/2015. There is a breach of conditions imposed upon the applicant. For non compliance of the order, interim relief deserves to be vacated and consequently, application seeking pre-arrest bail deserves to be rejected. This Court cannot be oblivious of the fact that applicant had only sought time one

or other ground and right from the day when he was given protection, he had never abided by the condition imposed by this Court. This by itself would show that applicant, in all probabilities may not be available for the trial also. His whereabouts are not known even to the learned counsel for the applicant. Learned counsel for the applicant submits that he has no instructions from the applicant.

5) In view of this, application stands rejected. Consequently, interim relief is vacated. Police machinery is at liberty to take action under section 82 of Code of Criminal Procedure, 1973 against present applicant.

(SMT. SADHANA S. JADHAV, J.)