

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 133 OF 2015

Radheshyam Gangasahay Trivedi

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Shirish Gupte, Senior Counsel a/w P. B. Shah i/b Mr. Abhishek
Deshmukh for Applicant

Ms. P. P. Shinde APP for the State.

Ms. Tahera Qureshi for original complainant

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 30, 2015

PC :

Not on board. Upon production, taken on board.

1) Heard. This is an application under section 438 of Code of Criminal
Procedure, 1973. Heard learned senior counsel for the applicant.

2) By an order dated 19/11/2013, this Court (Coram : Smt. Sadhana S.
Jadhav, J.) had passed an order to the effect that in the eventuality
investigating officer wants to arrest present applicant, a notice shall be issued
to the applicant, at least three clear working days prior to the intention of the
investigating officer to arrest the applicant.

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3) On 28/11/2015, A.P.I. of Chembur Police Station i.e. investigating officer in M.E.C.R. No. 2 of 2013 has issued a notice to the present applicant and directed him to remain present before him in time between 9.00 am to 9.00 pm within 72 hours. In view of this, applicant has filed present application seeking pre-arrest bail in M.E.C.R. No. 2 of 2013.

4) Learned APP submits that applicant has directly approached this Court under section 438 of Code of Criminal Procedure, 1973 without approaching Sessions Court. It is true that this Court has concurrent jurisdiction to decide an application under section 438 of Code of Criminal Procedure, 1973, however, Judicial Propriety warrants that applicant/accused shall approach the Court of first instance initially. In view of this, learned senior counsel for the applicant seeks liberty to withdraw the application with further liberty to approach the Sessions Court under section 438 of Code of Criminal Procedure, 1973.

5) Liberty as prayed for is granted in the interest of justice. Applicant is

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protected till 5.00 pm on 10/02/2015 within which period, he shall approach the court of Sessions under section 438 of Code of Criminal Procedure, 1973. Learned Sessions Court shall not be influenced by the withdrawal of this application and shall decide the application on its own merits.

6) Application stands dismissed as withdrawn and is being disposed of in above terms.

(SMT. SADHANA S. JADHAV, J.)