

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION  
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 358 OF 2015

1. Sanjay Ganagram Birje .....Applicants  
2. Mr. Shivraj Vijay Lad  
3. Rajan Babli Naik

V/s.

The State of Maharashtra ....Respondent

Mr. Sachin Punde i/b Mr. Milind Sawant for Applicants  
Ms. R. V. Nevton APP for the State.

**CORAM : SMT. SADHANA S. JADHAV, J.**  
**DATED : MARCH 11, 2015**

**PC :**

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 55 of 2015 registered at Panvel City Police Station for offence punishable under sections 343, 365, 506 (B), 323 r/w 34 of Indian Penal Code.

2) Applicant herein had approached Court of Sessions under section 438 of Code of Criminal Procedure, 1973 by filing Miscellaneous Application No. 198 of 2015. Learned Sessions Judge, at the time of deciding the interim application filed by the applicant has issued a notice to Public Prosecutor.

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Learned Sessions Judge has rightly observed that Panvel Town Police Station is directed to follow the guidelines given in **Arnesh Kumar v/s. State of Bihar and another** on 2<sup>nd</sup> July 2014 in Criminal Appeal No. 1277 of 2014 before arresting the applicants. It is against this observation that applicants have approached this Court seeking protection under section 438 of Code of Criminal Procedure, 1973.

3) In fact, this Court is of the opinion that the said order does not call for any interference as learned Sessions Judge has kept main application pending and has directed the police to make out a case for custody. Police has rightly been directed to follow the guidelines in the said case. It may not be necessarily inferred that application seeking interim protection has been rejected by the learned Sessions Judge. In the facts and circumstances of this case, this Court is of the opinion that the order dated 27/02/2015 does not call for any interference. This Court is hopeful that investigating agency would follow the guidelines in the case of **Arnesh Kumar v/s. State of Bihar** in letter and spirit.

**ORDER**

- (i) Application stands dismissed as not maintainable.
- (ii) Learned Sessions Judge, at the time of deciding the main application, shall not be influenced by the dismissal of this application and shall decide the application on its own merits.
- (iii) Application stands disposed of.

**(SMT. SADHANA S. JADHAV, J.)**