

Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.712 OF 2015.

Mr. James D'Souza

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Ravi Mishra i/b MZM Legal for Applicant.

Mrs. Prajakta Shinde, APP for Respondent-State.

CORAM: A.S. GADKARI, J.

DATE : 21st July 2015.

P.C.

1 This matter is placed before me in pursuance of order dated 7th July 2015 passed by the Co-ordinate Bench as I had passed the interim order dated 19.5.2015.

2 Heard learned Counsel for the applicant and the learned APP for the State.

3 The learned Counsel for the applicant submits that, though the statement was made on behalf of the applicant on 19th May 2015 before this Court thereby expressing his willingness to deposit the disputed amount in this Court with a view to prove bonafide of the applicant, the applicant

could not deposit the same within the said stipulated period and even as of today as the applicant is running short of the funds. He further submits that the applicant is trying to settle the matter out of the Court with the original complainant, but due to order dated 19.5.20015 the same could not take place.

4 It is to be noted here that in order dated 19.5.20015 in para-2, a statement of the Counsel for the applicant was recorded. The said statement is undoubtedly based on the instructions given by the applicant to his Counsel. On the basis of the said statement, the disputed amount was to be deposited within a period of three days from the date of order i.e. from 19.5.2015. As stated above, the said order has not been complied with. The applicant has failed to comply with the said order and has enjoyed pre-arrest bail till today. It is surprising to note here that the police authorities have also not taken notice of the condition imposed in para no.3(i), upon the applicant by the said order dated 19.5.2015. Para-3 (i) of the order dated 19.5.20015 reads as under:

“The Applicant shall deposit the amount of Rs.7,50,000/- by way of demand draft in the Registry of this Court within a period of three days from today. Subject to deposit of the said amount by the Applicant, in the event of arrest, the Applicant shall be released on anticipatory bail on furnishing a personal

bond of Rs.50,000/- and a solvent surety in the like amount.”

5 The learned Counsel for the applicant submits that his client is ready and willing to deposit the admitted amount of Rs.5,00,000/- in this Court as the applicant is disputing amount of Rs.7,50,000/- as has been mentioned in the said order. In my considered opinion this statement is clearly an afterthought of the applicant after enjoying pre-arrest bail for a considerable period.

6 Thus, it is clear that order dated 19.5.2015 was self-operative and failure on the part of the applicant to deposit the said amount, the anticipatory bail granted to the applicant has already come to an end. May that as it may, apart from the prima facie observations made in the order dated 19.5.2015 even on merits also the application has little merits. The minute perusal of the First Information Report and the documents of investigation, reveals that the applicant is perpetrator of the said crime and his custodial interrogation by the police is necessary for the purpose of further investigation.

7 In that view of the matter, I am not inclined to entertain the present Application and is accordingly dismissed.

(A.S. GADKARI,J.)

