

2 Apprehending their arrest by Anti Corruption Bureau, Thane, the applicants had moved the court of Sessions, Thane, for anticipatory bail. When the application for anticipatory bail was heard before the court of Sessions, it was disclosed to the court of Sessions that no offence in the matter had been registered till then. This was on 20th September 2015. The court of Sessions observed that no offence had been registered and only an inquiry was being made in the matter and directed that the Inquiry Officer should give 24 hours notice to the applicant, in the event of their (intended) arrest. The applicants are not satisfied with the limited success which they got before the court of Sessions, and have approached this court seeking a limited relief that the notice that has been directed to be issued to them before their arrest should be of 72 hours instead of 24 hours.

3 Mr.Jha submitted that, ordinarily, in such matters, where the First Information Report (FIR) is not yet registered, but the possibility of registration thereof is imminent, generally, a pre-

arrest notice of 72 hours is directed or agreed to be given. He further pointed out that, in this very matter, the relatives of the applicants had moved the court of Sessions at Thane, and the same learned Judge had directed a notice of 72 hours to be given before the arrest of those applicants before him.

4 There is substance in what Mr.Jha submits. Since the court of Sessions has felt it just and proper to have a notice to be given to the applicants before their arrest, it would have been proper on the part of the learned Additional Sessions Judge to have stipulated a reasonable period of notice. Notice of 24 hours is too short and may create difficulties for the applicants, as they may not get sufficient time to approach a court of law for appropriate reliefs.

5 I have heard the learned APP. What is submitted before this court is that, the order granting limited protection to the applicants, as passed by the court of Sessions, viz., requiring 24 hours previous notice to be given to them before their arrest –

is itself intended to be challenged. This was mentioned when the matter appeared on board on 19th October 2015. This court had, then, observed that, the State be given an opportunity to challenge the order passed by the court of Sessions, and it is, thereafter, that the present application would be decided.

6 Today, however, the same statement is made again. So far, proceedings challenging the order passed by the court of Sessions, have not been filed, though the learned APP does submit that they are likely to be filed within two to three days.

7 While adjourning the matter till today, this court had recorded the statement of the Inquiring Officer that the applicants would not be arrested for a period of one week. Since today also, the learned APP sought an adjournment, he was asked whether the Inquiring Officer is ready to make a similar statement today also. The learned APP, on instructions from the officer concerned, who is present, replied in negative.

8 Till today, no offence has been registered. In spite of that, a stand has been taken that the period of notice required to be given to the applicants should not be enhanced.

9 It was explained to the learned APP that what the applicants are contending is merely that 'the period of notice, as stipulated by the court of Sessions, is too short, and that, it should be more.' It was indicated that this court would not be examining the correctness of the order passed by the court of Sessions, and the State would be free to challenge that order, which challenge will not be affected merely because the notice period is enhanced. In spite of making this clear, a somewhat obstinate stand has been taken on behalf of the State that 'the notice period should not be enhanced,' and the ground for this opposition as given is that 'they want to challenge the order passed by the court of Sessions.'

10 The State does not state as to when an offence would be registered, or it would at all be registered. They are taking all the time to decide it. However, what they want is that, as and

when they register the crime (which may take even months) the applicant should not be left with any time to have recourse to law. This is patently unfair. I am, therefore, inclined to allow the application.

11 The order passed by the court of Sessions shall stand modified to the extent that the pre-arrest notice period stipulated by the said order shall be increased to 72 hours.

12 Save and except this, no other modification in the order.

13 It is also made clear that the extension of period has been done without examining the merits of the claim of the applicants for anticipatory bail. The State is free to seek appropriate remedy against the order passed by the court of Sessions, in case it is of the view that the direction requiring a notice to be given to the applicants is not in accordance with law or proper.

14 What this court has stipulated is only that since it was felt by the court of Sessions, that a notice was required to be given, the notice should have been of 72 hours, and not of 24 hours.

15 The application is disposed of accordingly.

(ABHAY M. THIPSAY, J.)

CERTIFICATE

**Certified to be true and correct copy of the original
signed Judgment / Order.**