

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1543 OF 2015

Dr. Ranvir Kumar Singh	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Uday P. Warunekar, Advocate for the applicant.

Mrs. A.A. Mane, APP for the respondent/State.

I.O. Mr. P.S. Thorat, P.I., Juhu Police Station, Mumbai present.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE : 23rd November, 2015

PC.:

This is the second anticipatory bail application. This Court has already rejected first Anticipatory Bail Application No. 1465 of 2013 by its order dated 3rd March, 2014. The applicant/accused is facing charges under sections 392, 342, 363, 332, 504, 506(2) r/w. 34 of the Indian Penal Code. Thus, the applicant/accused is charged with the offence under section 332, which is non-bailable, as he has voluntarily caused hurt to deter a public servant, i.e., the complainant, from his duty. Special Leave Petition No. 2879 of 2014 challenging the order of this Court was preferred by the applicant/accused before the Hon'ble Supreme Court and the said SLP is dismissed by an order dated 11th April, 2014 by the Hon'ble Supreme Court.

2. The learned counsel for the applicant/accused submitted that the

applicant has moved this second anticipatory bail application before this Court on the ground that there is change of circumstances. He submitted that the charge sheet is filed against the co-accused and the applicant/accused is shown as absconding and this is to be treated as change of circumstance. In support of his submission, he relied on the judgment of this Court in the case of **Laxman Irappa Hatti & Anr. vs. State of Maharashtra, reported in 2004(4) Mh. L.J. 4**. He submitted that the order passed by the Hon'ble Supreme Court is not a speaking order and therefore, the order passed by this Court rejecting the first anticipatory bail application is not merged in the order of the Hon'ble Supreme Court whereby the SLP was dismissed, as no reasons are given by the Hon'ble Supreme Court.

3. The learned APP opposed this Application and submitted that the charge sheet is filed only against the arrested accused. This is an application for anticipatory bail and there is no change of circumstance.

4. Filing of charge sheet when the accused is avoiding arrest and moving the applications for anticipatory bail second or third time is not a change of circumstance. It can be a change of circumstance only if the Investigating officer and the Prosecutor files affidavit that they don't need to arrest the accused. This is not the case in the present case. The ratio

laid down in the case of **Laxman** (*supra*) by this Court pertains to the Bail Application and not the Anticipatory Bail Application. The criteria for rejecting or granting bail as well as anticipatory bail are different. Further, the learned counsel, on the doctrine of merger, has relied on the judgment of three Judges Bench in the case of **Kunhayammed vs. State of Kerala, reported in AIR 2000 SC 2587**. This ruling is not at all applicable to support the submissions of learned counsel for the applicant on the point of change of circumstance. The submissions of the learned counsel for the applicant that the Hon'ble Supreme Court while rejecting the anticipatory bail application did not give speaking order are absurd. While dismissing the application for bail or anticipatory bail, it is not expected for the Supreme Court to give reasons if at all the order of this Court is found correct and there is no question of application of doctrine of merger in such interim order.

5. The Application for anticipatory bail stands rejected.
6. Copy of this order is to be sent to the Commissioner of Police and the Secretary, Home Department to take action.

(MRIDULA BHATKAR, J.)