

IN THE HIGH COURT OF BOMBAY AT GOA

**CRIMINAL APPLICATION (MAIN) NOS.102,103 & 104 OF
2016**

CRIMINAL APPLICATION (MAIN) NO.102 OF 2016

STATE THR. ITS POLICE INSPECTOR
/INVESTIGATION OFFICER,
COLVA POLICE STATION.

...APPLICANT

V/S

MR. DOMINGOS DINIZ

...RESPONDENT

Shri S.R. Rivankar, Public Prosecutor for the
Applicant.

Shri R. Menezes, Advocate for the Respondent.

WITH

CRIMINAL APPLICATION (MAIN) NO.103 OF 2016

STATE THR. ITS POLICE INSPECTOR
/INVESTIGATION OFFICER,
COLVA POLICE STATION.

...APPLICANT

V/S

MR. RAMNATH N. LOTLIKAR

...RESPONDENT

Shri S.R. Rivankar, Public Prosecutor for the
Applicant.

Shri Amit Palekar, Advocate for the Respondent.

AND

CRIMINAL APPLICATION (MAIN) NO.104 OF 2016

STATE THR. ITS POLICE INSPECTOR
/INVESTIGATION OFFICER,
COLVA POLICE STATION.

...APPLICANT

V/S

MR. MAHENDRA C. HALDANKAR

...RESPONDENT

Shri S.R. Rivankar, Public Prosecutor for the
Applicant.

Shri V. Lawande, Advocate for the Respondent.

CORAM : C.V. BHADANG, J.

Reserved on : 30th JUNE, 2016

Pronounced on: 1st July, 2016

ORDER :

Heard learned Public Prosecutor for the

applicant and the learned Counsel for the respondents. All these applications can be disposed of by this common order.

2. The applicant/State has filed these applications for cancellation of the anticipatory bail granted by the learned Sessions Judge to the respondents. A perusal of the order dated 15/02/2016 passed by the learned Sessions Judge shows that anticipatory bail is not with reference to the apprehension of arrest in relation to any specific offence/crime. The order itself mentions that the respondent/accused although has not mentioned any crime number, the State (which was the respondent) confirms that the presence of the accused is required in custody in "many cases of theft".

3. Such an approach, in my considered view cannot be countenanced. I find that such an order granting blanket protection from arrest,

cannot be sustained. The learned Sessions Judge has observed that in two of the crimes, the respondents/accused are already enlarged on bail. It is necessary to emphasise that the very basis of an application seeking anticipatory bail is the reasonable apprehension of the applicant/accused that he will be arrested in connection with the investigation of a non-bailable offence which normally can be with reference to a specific offence/crime.

This can also be looked at from another angle. While considering an application for grant of anticipatory bail, the Sessions Judge, is required to decide whether a case for custodial interrogation is made out or not. Normally, such a consideration would require weighing of various factors such as the nature of the offence, the material collected during the investigation, the possibility of the accused being available for interrogation or otherwise. These aspects can only be considered in relation to the nature of the offence and the

material collected with reference to a specific crime/offence. For instance in a given case the offences may be bailable, where the application for anticipatory bail may not be maintainable. For these reasons, I find that the impugned order passed by the learned Sessions Judge will have to be set aside.

4. Thus, the criminal applications are allowed. The impugned orders are hereby set aside. The application/s for anticipatory bail are hereby dismissed.

5. The learned Counsel for the respondents /accused have pointed out that there is an eminent apprehension of arrest, as the Investigating Officer, before the learned Sessions Judge, has expressed, that the custody of the respondent/accused is required "in many cases of theft".

6. The learned Public Prosecutor, on

instructions, from the Investigating Officer in all fairness, states that the Investigating Officer shall issue 48 hours notice to the respondents/accused if their custody is required with reference to any specific crime/offence registered against the accused. The statement is accepted. It is needless to mention that if such a notice is given with reference to a specific crime number/offence, it will be open to the respondents/accused to move the learned Sessions Judge for pre-arrest bail. If such an application is filed, the learned Sessions Judge shall proceed to decide the same, on its own merits, in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of any such plea, if raised.

C.V. BHADANG, J.

NH