

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.50 OF 2016

Tulasidas Gangadhar Pawar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Gaurav Parkar for the Applicant.

Mr. D.P. Adsul, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 13th JANUARY, 2016.

P. C. :

By this application the Applicant has sought interim bail in Crime No.182 of 2015 registered at Alibag Police Station, District-Raigad for the offences punishable under section 354 (a) (1) of the IPC and sections 8 and 10 of the Protection of Children from the Sexual Offences Act, 2012.

2. The Applicant herein had filed an application before Sessions Court, Raigad at Alibag and the learned Additional Sessions Judge, Raigad at Alibag vide order dated 8.1.2016 had dismissed the said application mainly on the ground that the offence is of serious nature and that custodial interrogation of the Applicant is necessary to

investigate the said crime.

3. It may be mentioned here that the object of interim bail is only to safeguard the liberty of the Applicant during the pendency of the bail application. A plain reading of section 438 of Criminal Procedure Code reveals that the Court after taking into consideration the factors enumerated in clauses (i) to (iv) of Sub section (1) of section 438 of the Criminal Procedure Code, can either reject the application forthwith or issue an interim order for the grant of anticipatory bail. Proviso to section 438 (1) of the Cr.P.C. provides that when the interim order is not passed or anticipatory bail is rejected, it is open to the officer in charge of a police station to arrest the Applicant, without warrant.

4. In the instant case, though the learned Magistrate has given findings on merits of the matter, has not rejected the application for anticipatory bail, but has rejected only the interim bail and has thereby put the Applicant to risk of being arrested. The arrest of the Applicant during the pendency of the application under section 438 of the Cr.P.C., will render the application infructuous.

5. Under the circumstances the Applicant is entitled for

interim bail till the disposal of the application for anticipatory bail being Criminal Misc. Application No.30 of 2016 pending before the Additional Sessions Judge, Raigad at Alibag. It is reported that the bail application is scheduled for hearing on 20.1.2016. The learned Sessions Judge is directed to dispose of the bail application on merits on or before 25.1.2016. Hence, the order.

- (i) In the event of arrest of the Applicant in Crime No.182 of 2015 registered at Alibag Police Station, District-Raigad the Applicant shall be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety to the like amount to the satisfaction of the Investigating Officer.
- (ii) The Applicant shall report to the Investigating Officer on the every alternate date till the disposal of the bail application.
- (iii) The Applicant shall not leave District-Raigad till the disposal of the bail application without prior permission of the Additional Sessions Judge, Raigad at Alibag.

- (iv) The interim order shall be in force till 25th January, 2016.

(ANUJA PRABHUDESSAI, J.)