

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1831 OF 2016

Ganpati Parasu Sutar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 1794 OF 2016

Shri Prafulla Prashant Mane	..	Applicant
vs.		
The State of Maharashtra		Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 1849 OF 2016

Vardhaman Jivandar Magdum		Applicant
vs.		
The State of Maharashtra		Respondent

Mr. Manas N. Gawankar ,Advocate for the applicant in ABA/1831/2016.

Mr. Umesh H. Pawar ,Advocate for the applicant in ABA/1794/2016

Mr. Priyal G. Sarda for applicant isn ABA/1849/2016.

Mr. R.M.Pethe, APP for the State in ABA/1831/2016 & ABA/1894/2016.

Mr. Prashant Jadhav, APP, for the State in ABA/1794/2016.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 2nd December, 2016.

P.C.

Heard. These are the applications under Section 438 of Cr.P.C.

The applicants herein are apprehending their arrest in Crime No.224 of

2015 registered at Sangli City Police Station for the offences punishable under Sections 408, 409, 420, 120B, 201, 381 read with Section 34 of the Indian Penal Code and Sections 8, 13(1)(c)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

2. After arguing for some time, the learned respective counsel seek liberty to withdraw the applications. It is apparent on the face of the record that the applicants – Prafulla Prashant Mane and Vardhaman Jivandar Magdum are apprehending their arrest mainly because of the statement of Sachin Kumbhar. The said statement cannot be converted into admissible evidence.

3. Taking into consideration the gravity of the offences, this Court is not inclined to grant any relief under Section 438 of Cr.P.C. The respective counsel make a statement that the applicants will appear before the Judicial Magistrate, First Class, Sangli, on or before 13.12.2016. In view of this, the applicants – Prafulla Prashant Mane and Vardhaman Jivardar Magdum are protected till 5 p.m. of 13.12.2016. The learned Magistrate shall consider their applications under Section 437 of Cr.P.C. without being influenced by the withdrawal of the applications under Section 438 of Cr.P.C. since the parameters of granting relief under under Sections 437 and 438 of Cr.P.C. would be different.

4. As far as the Anticipatory Bail Application No.1831 of 2016 is concerned, the applicant – Ganpati Parasu Sutar happens to be a public servant. The accused are also being prosecuted under the provisions of Prevention of Corruption Act. It appears that the Anti-Corruption Bureau has not taken any effective steps till today. The learned counsel for the applicant has fairly submitted that after he was granted interim relief, he was discharging his official duties without there being any coercive action from the department. Taking into consideration the papers of investigation, the applicant does not deserve the relief under Section 438 of Cr.P.C. The applicant is protected till 5 p.m. of 13.12.2016.

5. However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under Section 438 of Cr.P.C. The learned Special Judge, Sangli, shall not be influenced by the same at the time of hearing application under Section 439 of Cr.P.C. or at the time of trial.

All the applications stand disposed of.

(SMT. SADHANA S.JADHAV, J.)