

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

ANTICIPATORY BAIL APPLICATION NO. 1914 OF 2015

Santosh N. Nandgaonkar .. Applicant

v/s.

The State of Maharashtra ..Respondent

Mr. Mahesh Vaswani i/b. Rupali Shimpi for the applicant

Mr. Arfan Sait, APP for the respondent State

Mr.Sanjeev Kadam i/b. Sachin Hande for the intervenor, original complainant

Mr.A.N.Mulik, PSI from Revdanda Police Station is present.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 11th JANUARY, 2016.**

P.C.

1. This is the second application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in C.R.No. 71 of 2015 registered at Revdanda Police Station, for offences under Section 406, 420, 465, 468, 471 r/w. 34 of the Indian Penal Code.

2. The applicant herein had earlier filed an application for anticipatory bail being ABA No.1450 of 2015 which was dismissed on merits on 3rd December, 2015 after hearing the learned Counsel

for the applicant, the learned APP and the learned advocate for the intervenor.

3. Shri Vaswani, the learned Counsel for the applicant submitted that second successive bail application is maintainable. He has relied upon the judgments of Apex Court in ***Babu Singh & Ors. vs. State of U.P. AIR SC 527, Aneesh v. State of Kerala 2014 Cri.L.J. 1853.*** The learned Counsel for the applicant submits that filing of successive bail application is not restricted to subsequent events or developments, but it can also be filed when the applicant was unable to make certain submission in the earlier bail application. He has further submitted that the presence of the applicant is not required in the custody for the purpose of custodial interrogation or recovery. He further submits that the applicant is ready to deposit the amount allegedly misappropriated by him, hence he be granted bail.

4. The learned APP and the learned Counsel for the Intervenor submitted that the earlier bail application having been dismissed, the applicant is not entitled for bail without there being any

change in the circumstances. They have relied upon the decision of the Apex Court in *State of Maharashtra vs. Captain Buddhikota Subha Rao AIR 1989 SC 2292*.

5. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. At the outset it may be mentioned that there is no dispute about the maintainability of successive bail application when the filing of such application is warranted by change in circumstances. In *State of Maharashtra v. Captain Buddhikota Subha Rao (supra)*, the Apex Court has held that successive bail applications can be entertained by the court when there is substantial change in the fact-situation. It is held that 'change', should be substantial one which has a direct impact on the earlier decision and not merely cosmetic changes which is of little or no consequence.

6. In the instant case, the learned Counsel for the applicant has not been able to point out any change in the circumstances, or any further development since the date of the last order. The arguments sought to be canvassed were already considered earlier

and entertaining the second bail application on the same facts and circumstances would virtually amount to reviewing or over ruling the earlier order. The application therefore has no merit and the same is hereby dismissed.

(ANUJA PRABHUDESSAI, J.)