

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [ABA] No. 73 of 2016
[Bharti Jitendra Patnaik Vs. State of Mah.]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. P.A. Abhyankar, Adv., for the Applicant.
Mr. A.M. Deshpande, APP for respondent.

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CORAM : A.B. CHAUDHARI, J.

DATE : 25th February, 2016

This is a second application for grant of anticipatory bail, since the earlier application was rejected by this Court by recording an order on merits of the matter after hearing both sides and having found a prima facie case against the applicant.

Now, in the instant application, inviting my attention to paragraph 8 of this application, it is sought to be contended that the applicant could not reach Nagpur to instruct her Advocate that she had gone to the Police Station pursuant to the interim order made by this Court, fully co-operated and even joined the investigations and all the formalities of seizure were

completed. Since that was not pointed out to this Court, she had suffered an adverse order from this Court.

I have heard learned Adv. Mr. Abhyankar for the applicant and learned APP Mr. Deshpande for the respondent, State, and having regard to the subsequent event pointed out in para 8 of the application, I find that the said event is not a subsequent event. In terms of the Constitution Bench Judgment of the Supreme Court in the case of **Gurbaksh Singh Sibbia etc. Vs. State of Punjab** [AIR 1980 SC 1632], the Court has to find out whether a prima facie case exists or not.

In this case, I have recorded a specific finding about a prima facie case existing against the applicant. Whether the applicant had co-operated, joined the investigations on the strength of the interim order made by this Court, would not be the end of the matter, nor the same would be the subsequent event. In substance, a detailed order made by this Court on 14th December, 2015 rejecting the application for grant of anticipatory bail cannot be reviewed under the garb of the subsequent event. To support his arguments, learned counsel for the applicant relied on the decision of the Apex Court in the case of **Babu Singh & others Vs. State of U.P.** [1978 SCR (2) 777]. There is no quarrel about the proposition laid down in the said reported judgment that the second bail application can be maintained if there is a subsequent event. In view of the above, I make the following order:-

ORDER

Criminal Application [ABA] No. 73 of 2016 is
rejected.

Judge

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