

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 422 OF 2017
Bharat L. Khevra and ors. vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.G.Deshmukh, Sr.Counsel with Mr. Kanchanpurkar
G.T. for the Applcint.

Mr. Arfain Sait, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 20th April, 2017

P.C.

1) This is the second application under Section 438 of the Cr.P.C. for pre-arrest bail. The earlier application preferred by the applicant was rejected on merits by this Court by an order dated 26.8.2016. The applicant again preferred a fresh anticipatory bail application for pre arrest bail bearing ABA No.173/2016 before the Additional Sessions Judge, Palghar which came to be rejected by an order dated 13.10.2016. The present application is thereafter filed on 16.12.2016.

2) Mr. Deshmukh, learned counsel appearing for the applicant submitted that at the time of hearing of the earlier application i.e. ABA No.690 of 2016 cross complainant lodged by the applicants with the police was not brought to the notice of this Court and that is the change in circumstance in preferring the present

application and therefore, this Court may consider the application of the applicant afresh.

It is to be noted here that the learned Single Judge of this Court after considering the judgment in the case of Kamlesh D. Gandhi vs. State of Maharashtra and anr. reported in 2007 All MR(Cri.) 1572 Para 20 has held that successive application for pre arrest bail is tenable only when there is substantive change in fact situation or law which requires earlier view being interfered with or where the earlier view has become absolute. In the present case, according to me, neither there is any change in circumstance, nor the earlier view which was taken by this Court has become absolute. It is further to be noted here that there is subsequent development post rejection of the Anticipatory Bail Application by an order dated 26.8.2016 by this Court. It is informed by the learned APP that the police have applied the provisions of MCOC Act to the present crime i.e. CR No.20/2016 and as the applicant is not traceable i.e. absconding the learned Special Judge under MCOC Act has issued proclamation dated 7.4.2017 as contemplated under Section 20(3)(a) of the MCOC Act. As stated earlier there is no change in circumstance in the facts and circumstance of the present case. The application being devoid of any merits is accordingly rejected.

(A.S.GADKARI, J.)