

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

**CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1012 of 2017**

Mr. Sagar Amar Patwa ...Applicant

*Versus*

The State of Maharashtra ...Respondent

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Mr. A. H. Ponda i/b. Mr. D. S. Joshi for the applicant.  
Mr. Ajay Patil, APP for the respondent-State.  
Mr. Hemang Jariwala i/b. Auroma Law for the intervener.  
PSI Arun Jadhav, Tilaknagar Police Station present.

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**CORAM : PRAKASH D. NAIK, J.**  
**DATE : 15 JUNE 2017**

**P.C. :**

1. This is an application for anticipatory bail in connection with C.R. No.358 of 2016 registered with Tilak Nagar Police Station for the offences punishable under sections 406, 409, 420, 465, 467, 468, 471 of IPC.

2. At the outset the learned advocate for the applicant submitted that he is praying that the application may be remanded back to the Sessions Court for deciding it on merits.

3. Learned advocate for applicant submitted that by order dated 27 April, 2017, the Sessions Court had granted interim protection to

the applicant. The applicant was directed to be released on bail in the event of his arrest on furnishing PR Bond of Rs.1,00,000/- (Rupees One lakh only.) with solvent surety of the like amount.

4. The Court also stipulated certain conditions in the said interim order. The applicant was directed to cooperate with the investigating officer as and when required by him for investigation of the offence. It was further directed that the applicant should not contact in any manner with prosecution witnesses. The applicant to attend Tilak Nagar Police Station on every Monday and Friday between 11.00 am to 2.00 pm. The applicant was directed not to leave India without the permission of the Court and that he should remain present on each and every date in the Court. It was further directed that failure of obedience of any of these conditions, will amount to automatic cancellation of bail. The application was adjourned to 15 May, 2017.

5. It is submitted that on 15 May, 2017, since the regular Court was on leave, the application was adjourned to 7 June, 2017. The application came up for hearing on 7 June, 2017. Vide order dated 7 June, 2017, the Sessions Court has observed that by order dated 27 April, 2017, the applicant was granted interim protection on a condition to attend the police station on every Monday and Friday

between 11.00 am to 2.00 pm. The applicant was also directed to attend the Court on every date of hearing. The Court further observed that in accordance with clause (8) of the interim order, in the event of failure of compliance of any of the condition, there will be automatic cancellation of bail. It is further observed that the learned advocate for the informant brought to the notice of the Court that the applicant was not present before the Court on the last date and even on 7 June, 2017, and pointed that the applicant did not attend the police station on every Monday and Friday as directed in the interim order. The order dated 7 June, 2017, further mentioned that the advocate for the applicant produced a diary showing that from 1 May, 2017 till 5 June, 2017, the applicant had attended Tilak Nagar Police Station as directed in the interim order, and that the Court verified the diary. It was further observed that even if none attendance on 28 April, 2017 is excused, the accused has no reason to remain absent before the Court on 25 May, 2017 and even on 7 June, 2017. The Court therefore held that in view of clause (8) of the interim order there was a failure on the part of the applicant / accused to obey the conditions and hence the said clause comes into operation and automatically bail stands cancelled.

6. Learned advocate for the informant submitted that after passing of order dated 7 June, 2017, the applicant had preferred application before the Sessions Court seeking the anticipatory bail. However, the said application was withdrawn. Learned advocate for the applicant submits that the Sessions Court had no power to review its own order and hence the said application was withdrawn and the applicant has approached this Court by way of present application. Learned advocate submits that the applicant admits that on 28 April, 2017 he could not attend police station. He submits that the copy of order was not ready. It was also admitted that applicant did not remain present in Court. Learned advocate for the applicant however submitted that the applicant had attended police station from 1 May, 2017 till 5 June, 2017 and relied upon the entries of his attendance made at the police station which are annexed to this application. The said entries are not denied by the learned APP on instructions of the instructing officer who is present in Court. Learned APP submitted that it was necessary for the applicant to attend the investigating officer and merely attending police station would not serve the purpose. However, the fact remains that the applicant had attended the police station. It is true that there was no excuse for the applicant not to attend the court proceedings. Learned advocate for

the applicant however submits on instructions that if the Sessions Court is directed to rehear the application, he will diligently appear on every date of hearing before the Court as stipulated in the interim order dated 27 April, 2017. Learned advocate however submitted that today he is without any interim protection and in the event the application is remanded back to the Sessions Court for fresh hearing he may be granted interim protection.

7. Learned APP and the advocate for the informant submitted that the interim order should not be granted to the applicant for indefinite period. Learned APP, however, submitted that if the application is remanded back to the Sessions Court for fresh hearing, then the earlier conditions imposed by the Sessions Court vide interim order dated 27 April, 2017 would stand revive and that the applicant should obey the said conditions.

8. The application was not rejected on merits, but for non compliance of the conditions. It is an admitted position that the applicant had attended the police station on the dates referred above. Learned advocate had also submitted that when the applicant attended the police station, the statement was also recorded by the police. Be that as it may, since the application is rejected on account

of non compliance of conditions imposed in interim order and operation of clause (8) of interim order dated 27 April, 2017, the Sessions Court can be directed to hear the application on merits.

9. Hence I pass the following order;

**:: ORDER ::**

- (i) The Sessions Court is directed to hear anticipatory bail application no.648 of 2017 and decide it on merits.
- (ii) The order dated 7 June, 2017 passed by the Sessions Court stands set aside.
- (iii) Conditions stipulated in the order dated 27 April, 2017 stands revived including the directions issued by the applicant to attend every date of hearing.
- (iv) Interim order dated 27 April, 2017 passed by the Sessions Court will continue till 29 June, 2017. The application be heard on 29 June, 2017 and the same be dealt with in accordance with law.
- (v) The Sessions Court should decide the application on merits without being influenced by this order.
- (vi) Application stands disposed of.

**[PRAKASH D. NAIK, J.]**