

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1569 OF 2017

Ramesh Bhausaheb Sonawane ..Applicant.
vs.
The State of Maharashtra ..Respondent.

Mr.S.R.Morya i/by V.S.Talkute for the Applicant.
Mr S.H. Yadav, APP. for the State.

CORAM: A.S.GADKARI, J.
DATE : 8th September, 2017.

P.C.

1. This is an application under Section 438 of the Criminal Procedure Code for pre-arrest bail in RCC No.355/2016 pending on the file of the II Joint Civil Judge, J.D. And J.M.F.C. Phaltan.
2. The record indicates that a complaint is filed by one Mr. Ashok Bandu More. The learned Magistrate by its order dated 11.5.2016 had directed to conduct investigation into the allegations made by the complainant. That, after receipt of the report from the concerned police station, by an order dated 17.10.2016 the learned Magistrate issued process under Sections-420,465,468,471 of the I.P.C. making it returnable on 19.12.2016. As the applicant was apprehending his arrest on his attending Court of Magistrate on 19.12.2016, he preferred Criminal Misc. Application No.239/2017 under section 438 of the Cr.P.C. for pre-arrest bail before the Additional Sessions Judge, Satara. By an order dated 3.8.2017 the Lenard Additional Sessions Judge turned down his request. In the premise, the applicant has preferred the present application for pre-arrest bail.
3. The record clearly indicates that in pursuance of the order dated 11.5.2016 passed by the Magistrate directing investigation under Section 202 of the Cr.P.C., the Investigating Officer never made a request to the Magistrate for custodial interrogation of the

applicant. That, till the issuance of process by an order dated 17.12.2016 the applicant was not required to be taken into custody during the course of investigation under Section 202 of the Cr.P.C. and the custody of the applicant was never sought. It is the apprehension of the applicant that as the process is issued against him for the alleged offences under Sections 420, 465, 468, 471 of the Indian Penal Code which are non bailable offences, there is apprehension that he may taken into custody on his appearance before the Magistrate in pursuance of the said issuance of process. In view of the facts mentioned herein above, in my view, the applicant has made out a case for pre-arrest bail.

4. Hence, the following order.

- a) In the event of arrest of the applicant in RCC No.355/2016 pending on the file of J.M.F.C. Phaltan, District Satara the applicant shall be released on bail on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) The applicant shall attend all the dates before the Trial Court unless exempted by the concerned Magistrate.
- c) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- d) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)