

Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.672 OF 2016
(Cancellation of Anticipatory Bail)

Almas Wasim Mulla

.Applicant

Vs.

The State of Maharashtra & anr.

.Respondents

Mr.K.J.Patil, Advocate, for the Applicant

Mr.Prashant Jadhav, APP, for the Respondent No.1 – State

Mr.Indrajeet Joshi, Advocate, for the Respondent No.2

CORAM : REVATI MOHITE DERE, J.

DATE : 07.06.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks quashing and setting aside of the Order dated 14.11.2016 passed by the learned Additional Sessions Judge, Kolhapur in Cri. B.A.No. 676 of 2016, by which the Respondent No.2/Accused was granted Anticipatory Bail.

3. The principal submission of the learned counsel for the Applicant is, that the Kolhapur Court had no jurisdiction to entertain the Application and grant Anticipatory Bail to the Respondent No.2/Accused. He submitted that the case i. e.

C.R.No.209 of 2016 was registered with the Sangli City Police Station, Sangli, alleging offences punishable under Sections 498A, 406, 323, 504, 506 r/w.34 of the Indian Penal Code and under Sections 3(5)(25) and 27 of the Arms Act. He submits that even the investigating officer in the said case was not called and was not heard. He submitted that the Kolhapur Court had no jurisdiction to entertain the Anticipatory Bail Application and that the proper remedy for the Respondent No.2/Accused was to approach the Sangli Court. He further submitted that the Respondent No.2 had initially approached the Ichalkaranji Court and had sought Anticipatory Bail, however, the said Application was rejected after which the Respondent No.2/Accused filed an Application for Anticipatory Bail before the Kolhapur Court.

4. Learned counsel for the Respondent No.2/Accused also does not dispute the fact, that the FIR was lodged with the Sangli City Police Station. He also does not dispute the fact, that the appropriate remedy for the Respondent No.2/Accused, was to file an Anticipatory Bail Application before the Sangli Court and not before the Kolhapur Court.

5. Learned APP also does not dispute the fact, that the

Kolhapur Court had no jurisdiction to entertain the Application.

6. Perused the papers. It is not in dispute, that since the FIR was lodged with the Sangli City Police Station, the learned Sessions Judge, Kolhapur had no jurisdiction to entertain the Respondent No.2's Application for Anticipatory Bail and grant Anticipatory Bail. The order is contrary to law.

7. Accordingly, the impugned Order dated 14.11.2016 passed by the learned Additional Sessions Judge, Kolhapur is quashed & set aside. Needless to state that the Respondent No.2/Accused is at liberty to file a fresh Application before the appropriate Court, having jurisdiction to entertain the Application. If such an Application for Anticipatory Bail is preferred by the Applicant, the appropriate Court shall decide the same on its own merits uninfluenced by the order passed today, or the Order dated 14.11.2016 passed by the learned Additional Sessions Judge, Kolhapur. It is also made clear, that this Application has not been heard on merits and that the Order has been set aside only on the point of jurisdiction.

8. Accordingly, the Application is disposed of.

All the contentions of both the parties are kept open.

(REVATI MOHITE DERE, J.)