

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

CRIMINAL APPLICATION NO. 121 OF 2016

Hemendra Bosmiya

... **Applicant**

V/s.

The State of Maharashtra & Anr.

... **Respondents**

Mr. Sunny Punamiya for the Applicant.

Ms. A.A. Takalkar, APP for the Respondent/State.

Mr. P.S. Gole i/b Anusha Amin for Respondent No.2.

CORAM : A.S.GADKARI, J.

DATE : 1st FEBRUARY, 2018

P.C.:

. This is an application for cancellation of Anticipatory bail granted to the Respondent No.2 by the learned 2nd Addl. Sessions Judge, Thane vide its Order dated 05.01.2016 in ABA No. 1511 of 2014.

2 Heard the learned Counsel for the Applicant, the learned Counsel for the Respondent No.2 and the learned APP. Perused the record.

3 The record indicates that the Applicant had filed complaint bearing OMA No. 546 of 2014 before the Judicial Magistrate First Class, Thane under Section 383, 384, 388, 418, 420, 464, 466, 468 & 471 of the Indian Penal Code. The learned Magistrate thereafter, passed an Order under Section 156(3) of Cr.P.C., thereby directing the concerned police station to investigate into the said

allegations. The Respondent No.2 therefore, preferred the aforesaid Anticipatory Bail Application No. 1511 of 2014 for pre-arrest bail. The learned 2nd Additional Sessions Judge, Thane by an Order dated 05.01.2016 was pleased to allow the said application which is impugned herein.

4 The learned Counsel for the Applicant submitted that co-accused is still absconding and is not traceable. He further submitted that the Investigating Officer is yet to reach to the conclusion as to who is the person who has submitted the alleged forged documents for ULC exemption and for other charges and without taking into consideration the said facts, the learned Addl. Sessions Judge has granted pre-arrest bail to the Respondent No.2. He therefore, prayed that the impugned Order may be set aside and the anticipatory bail granted to the Respondent No.2 be cancelled.

5 As noted earlier, the perusal of record would indicate that on the basis of private complaint filed by the Applicant and in pursuance to the Order passed under Section 156(3), the police are investigating the present crime. The investigation of the present crime is based solely on documents which are already in possession of the police or in the possession of the Applicant. The learned Trial Court after taking into consideration the various circumstances of the present case was pleased to grant pre-arrest bail to the Respondent No.2.

6 After perusing the record, this Court is of the view that the impugned Order dated 05.01.2016 does not suffer from any error either in law or on facts

and therefore, interference in it by this Court is unwarranted.

7 In view of the above, the application is accordingly rejected.

(A.S.GADKARI, J.)