

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1699 OF 2018

Radheshyam Parasnath Goswami

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. S.P. Kadam a/w Sunil Lohane, Pramod Londhe I/by Juris Partners
for the Applicant.

Mr. A.R.Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 24th SEPTEMBER, 2018.

P.C.:-

This is a successive Application for pre-arrest bail by the
Applicant.

The earlier Anticipatory Bail Application No. 1016 of 2018
has been rejected by this Court by a reasoned order dated 22nd May,
2018.

2 The record indicates that, during the intervening period,
police have submitted charge-sheet. Except submission of charge-
sheet, there is no change in the facts and circumstances of the present
case, which would make the earlier view taken by this Court obsolete.

3 This Court, in the case of *Kamlesh Dhirajlal Gandhi Vs.*

State of Maharashtra reported in Mh.L.J. 2007 (2) 851: Mh.L.J.(Cri.) 2007 (1) 324, ALLMR (Cri.) 2007 (0) 1572 in paragraph No.20 has held as under:-

“20. As already discussed hereinabove, it is well settled that insofar as the application under section 439 of the Code is concerned, successive application on new fact situations or change in law could be entertained. As already discussed above, the provisions of sections 438 and 439 of the Code are almost analogous. The Constitution Bench of the Supreme Court in Gurubaksh Singh's case has held that since denial of bail amounts to deprivation of personal liberty the Court should lean against imposition of unnecessary restrictions on the scope of section 438 of the Code especially when not imposed by the legislature, I am, therefore, inclined to hold that successive applications for anticipatory bail, after rejection of earlier application, would be tenable in law. However, as held in Kalyan Chandra Sarkar's case the said application is tenable only when there is a change in the facts situation or law which requires earlier view being interfered with or where the earlier view has become obsolete. In that view of the matter, the present applications are tenable in law.

4 In view thereof, I find no merits in the present Application and is accordingly rejected.

(A.S. GADKARI, J.)

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