

901- ABA 1840 of 2018

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

ANTICIPATORY BAIL APPLICATION No.1840 OF 2018

Mr. Yogit Sharad Thale and Anr.

....Applicants

Vs.

State of Maharashtra and Anr.

....Respondents

Mr. Sanjay Kulkarni for Applicants

Mr. Ajay Patil -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: SEPTEMBER 27, 2018

P.C.

1. Heard the learned counsel for the Applicants and learned APP.
2. This is a subsequent application under 438 of the Code of Criminal Procedure, 1973. The earlier application was heard by this Court on 1st August, 2018. After arguing at length, when this Court had opined that no case for enlargement on bail was made out, the learned counsel for the Applicants, upon instructions, has sought liberty to withdraw the application. Liberty was granted

in the interest of justice. The learned counsel for the Applicants, upon instructions in the Court, had further submitted that the Applicants would appear before the concerned Magistrate on or before 13th August, 2018 and in view of the same, the Applicants were protected till 5.00 p.m. of 13th August, 2018. This Court had further directed the Magistrate to make every endeavor to dispose of the application under section 437 of Cr.P.C. on the same day on merits and that the withdrawal of the application before this Court shall not be considered as an impediment in any other proceedings.

3. However, the Applicants have not honored the undertaking that was given to the Court. They continued to remain at large till 31st August, 2018 and, thereafter, had filed this present application.

4. While granting circulation, this Court had directed the learned counsel for the Applicants to keep the applicants present in the Court. However, the Applicants have chosen not to remain present in the Court.

5. The learned counsel for the Applicants submits that the Applicants have filed a petition under section 482 of Cr.P.C. seeking quashing of FIR against them. The same is pending before the Division Bench. Till today, no orders are passed in the said petition. It is pertinent to note that on 10th August, 2018, the Applicants have filed a petition seeking quashing of FIR and no interim

orders are passed and on that ground, in all probabilities, they are exercising self-proclaimed liberty. It is pertinent to note that the Applicants happen to be the police personnels. The learned APP has also failed to make any statement about the reasons for not taking coercive action against the police personnels, who are accused for the offences punishable under section 420, 406 r/w. 34 of the Indian Penal Code. The learned APP submits that in fact the verification of the anticipatory bail application is done only by Applicant No.1 and, therefore, the whereabouts of Applicant No.2 are not known.

6. There is no change in the circumstances. It is clear that being police personnels, the Department is protecting them. Hence, the application for anticipatory bail stands rejected on merits.

[SMT. SADHANA S. JADHAV, J.]