

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

ANTICIPATORY BAIL APPLICATION NO.1722 OF 2017

Prakash Kumar Kiran Kumar Soni	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
APPLICATION NO.922 OF 2017**

Smt. Reena Prakashkumar Soni	Applicant/Intervener
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In the matter between

Prakash Kumar Kiran Kumar Soni	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. N.P. Dalvi for the Applicant.
Mr. P.N. Dabholkar, APP for the Respondent State.
Mr. D.S. Pagare for the Intervener.

CORAM : A.S.GADKARI, J.

DATE : 15th JANUARY 2018

P.C.:

1. By the present application, the applicant has impugned an Order dated 23.09.2017 passed by the Additional Sessions Judge-1, Thane in Criminal Miscellaneous Application No.316/2017 thereby cancelling the anticipatory bail granted to the applicant in Anticipatory Bail Application

No.2872/2017 an Order dated 01.02.2017.

2. The applicant is accused no.1 in C.R.No.I-397/2016 registered with Kalwa Police Station. The said crime is registered at the instance of Smt. Reena Soni, the wife of applicant. The record indicates that after lodgment of the said crime, the applicant alongwith his parents filed the said ABA/2872/2016 before the learned Additional Sessions Judge-2, Thane and the concerned Court after taking into consideration the facts involved in the present case, was pleased to grant pre-arrest bail to the applicant and other accused. The condition no.2 (B) of the said Order reads as under:-

2(B) They should not tamper, pressurize or threaten the prosecution witnesses and be of good behaviour.

3. The record further reveals that, the applicant extended threat to the first informant on 09.06.2017 when she had been to the Court at Thane for attending the proceedings *inter-se* between the parties. A non-cognizable offence bearing no.1333/2017 dated 13.06.2017 under Section 504 and 506 of the Indian Penal Code has been registered in that behalf. The investigating agency, therefore, filed an application bearing Criminal Misc. Application No.316/2017 on 15.07.2017 before the

Sessions Court at Thane seeking cancellation of anticipatory bail granted to the applicants on the ground of violation of condition imposed upon him. The Trial Court after taking into consideration the fact that the applicant has violated the said condition by the impugned order was pleased to allow the said application and cancel the anticipatory bail granted to the applicant in ABA/2872/2016 as stated earlier. The said order, is impugned herein.

4. Mr. N.P. Dalvi, the learned Counsel appearing for the applicant submitted that though the alleged incident of extending threat to the first informant had occurred on 09.06.2017, the first informant did not take any steps to lodge complaint with the police immediately and there is a delay of about 4 days in lodging the afore-stated NC complaint. He further submitted that the Trial Court has committed a blatant error in mentioning in its operative part of the order, that the bail in respect of the applicant is rejected and the bail granted in Application No.2872/2017 to the applicant is cancelled. He further submitted that, the applicant was granted anticipatory bail by the concerned Court and it was not the regular bail. He further submitted that the anticipatory bail and regular

bail are different and the Trial Court has therefore committed error in mentioning that the bail granted to the applicant is cancelled. He submitted that as a matter of fact, the applicant has cooperated in the process of investigation after granting him anticipatory bail and the Stridhan mentioned in the first information report and/or in the statement of the first informant has been seized from his residential premises situated at Sirohi, State of Rajasthan. He further submitted that there was no reason for the Trial Court to cancel the anticipatory bail granted to the applicant. He, therefore, prayed that the impugned order may be quashed and set aside.

The learned APP vehemently opposed the application and supported the impugned order.

5. As noted earlier, it is the case of prosecution that, the applicant on 09.06.2017 extended threat to the first informant in the Court premises when the first informant had been to the concerned Court for attending Court proceedings. The Trial Court while releasing the applicant on anticipatory bail had specifically imposed the condition that, the applicant shall not tamper, pressurize or threaten the prosecution

witnesses and be of good behaviour. The facts of the present case indicates that the applicant has clearly violated the said condition, and therefore, the investigating agency was constrained to file the said Criminal Misc. Application No.316/2017 for cancellation of anticipatory bail granted to the applicant. It is to be noted here that, administering or extending threats to the witness/witnesses in Court Premises cannot be countenanced for any reason.

6. The words mentioned in the operative part of the impugned order i.e. “bail” instead of “anticipatory bail” appears to be a typographical mistake or a sheer human error in that behalf. The Trial Court has categorically mentioned the Application No.2872/2017 wherein the applicant was granted anticipatory bail by an order dated 01.02.2017. After perusing the record and after minutely perusing the impugned order, this Court is of the view that the Trial Court has not committed any error, either in law or on facts while passing the impugned order. I find no reason to interfere with the impugned Order dated 23.09.2017. The application is accordingly rejected.

In view of Order passed in ABA/1722/2017, the Application

No.922/2017 for intervention does not survive and the same is accordingly disposed off.

(a) At this stage, the learned Counsel for the applicant submitted that, the applicant would like to test the correctness of the present order before the Hon'ble Apex Court, and therefore, the interim relief granted by an Order dated 29.09.2017 may be continued for a period of four weeks from today. At the request of learned counsel for the applicant, the operation and implementation of the present order is stayed for a period of four weeks from today.

(A.S.GADKARI, J.)