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

ANTICIPATORY BAIL APPLICATION NO.2043 OF 2016

Abhijit Prabhakar Kounduskar

..Applicant

Vs

Department of Revenue Intelligence & Anr.

..Respondents

Mr. Dinesh Tiwari a/w Swapnil Ambulkar i/b Dinesh Tiwari & Associates
for applicant.

M. F.E. Saldanha, Special P.P for respondent No.1-DRI.

Ms. Rutuja Ambekar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 18th June 2018.

P.C.:

1] By a detailed Order dated 27th September 2017, the applicant
was granted interim relief.

2] Heard Mr. Tiwari, the learned Counsel for the applicant, Mr.
Saldanha, the learned Special P.P for respondent No.1-DRI and the learned
APP for respondent No.2-State.

3] In the present case, the alleged offence is dated 3.4.011. The
contraband in the present case is Ketamine weighing about 300 Kgs. After
completion of investigation, the respondent-DRI has submitted complaint

under Sections 29 read with Section 8(c), Section 22 read with Section 29, Section 22 read with Section 8(c), and under Section 25 and 27A read with Section 8(c) of the Narcotic Drugs And Psychotropic Substances Act (for short NDPS Act) before the learned Special Judge under NDPS Act, Thane on 3.10.2011 and it is numbered as Special Case No.64 of 2011.

4] The Department of Revenue Intelligence (DRI), Bombay was investigating another case bearing No.121 of 2011 pertaining to consignment of Ketamine weighing 1026 Kgs and in the same case the applicant was arrested on 1.6.2011 and was released on bail on 28.7.2014 by the Sessions Court at Mumbai and the same was confirmed by this Court by its Order dated 8.9.2011.

5] The record indicates that, the DRI, Ahmadabad started investigation of a case i.e. Case No.5 of 2012 on 3.12.2011 for manufacture and/or possession of a contraband namely Methamphetamine by the accused persons therein. The applicant was arrested in that case on 17.12.2011 and was granted bail by the Honourable Supreme Court by its Order dated 29th July 2016.

6] Thus it is clear that, initially the applicant was in the custody of respondent No.1-DRI Bombay during period from 1.6.2011 to 28.7.2011 in

Special Case No.121 of 2011 and subsequently was in the custody of DRI Ahmadabad during the period from 17.12.2011 to 29.7.2016. The date of lodgment of present crime is 3.4.2011. The date of his arrest in Case No.5 of 2012 is 17.12.2011. During the said intervening period i.e. from 28.7.2011 till 17.12.2011 the respondent No.1-DRI never sought custody of the applicant for the purpose of investigation of the present crime i.e. No.64 of 2011 and as noted earlier after completion of investigation the respondent No.1 has filed complaint in the Court of Special Judge for NDPS Act on 3.10.2011.

The aforesaid chronology of events are admitted facts on record.

7] In this background, the custody of the applicant is being sought by the respondent No.1-DRI only for the purpose of completing procedural aspect of his production before the Trial Court after filing complaint and to hand over the complaint to the applicant in the Court and for recording his plea before framing of charge. The said fact can be discerned from the statement made by the respondent No.1-DRI before the Trial Court and as has been observed in paragraph No.7 of the impugned Order dated 11.11.2016.

8] As the Investigating Agency never sought custody of the applicant during the course of investigation till submission of complaint, I find that the custody of the applicant for completing further legal formalities as noted earlier is not necessary.

In view of the facts and circumstances mentioned hereinabove, the applicant is entitled to be protected by pre-arrest bail.

9] In view thereof, interim relief granted by Order dated 27th September 2017 is hereby confirmed. However, the applicant is directed to remain present before the Trial Court on 27th June 2018 at about 11.00 a.m and to participate in complying with the legal formalities as noted earlier.

Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)