

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 882/2018

Ganesh Kisanrao Sonone V/s State of Maharashtra Through P.S.O., P.S. Ramdaspath, Tq. & Dist.
Akola.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V. Sirpurkar, counsel for the applicant.
Shri H.R. Dhumale, APP for the non-applicant/State.

CORAM : M.G. GIRATKAR, J

DATE : 13.12.2018.

Heard Shri S.V. Sirpurkar, learned counsel
for the applicant.

The learned counsel for the applicant has submitted that the applicant could not remain present after granting bail before the trial. Non-bailable warrant was issued. He applied before the Sessions Court for cancellation of non-bailable warrant and it was rejected. Thereafter, he applied for anticipatory bail. The said application also came to be rejected. The learned counsel for the applicant has submitted that the applicant is a businessman and permanent resident of Akola.

The learned APP for the non-applicant has strongly objected the application on the ground that the bail was already granted. There is no provision to grant anticipatory bail when non-bailable warrant is issued.

Shri Sirpurkar, learned counsel has pointed out the judgment, in the case of *Akhalaq Ahmed F. Patel v/s State of Maharashtra reported in 1998 All MR*

(CRI) 1070 . In the cited decision, bail was granted in a proceeding for the offences punishable under Sections 498A, 306 read with Section 34 of Indian Penal Code. In that case, the accused could not remain present therefore non-bailable warrant was issued. This court has observed as under :-

“On merits admittedly on the basis of the same incident an FIR has been registered against the applicant on 18th November 1995. It is also a matter of record that in the said case the petitioner has been released on bail by order dated 4.1.1996. The present complaint has been lodged before the Court after a period of two and half years. The petitioner is in Government service. There is hardly any apprehension of the petitioner absconding. At this stage it can hardly be said that the petitioner is likely to tamper with the evidence or interfere with the witnesses. In view of the above I find this to be a fit case in which the petitioner deserves to be granted anticipatory bail.”

In view of the judgment, the applicant is entitled for protection. Hence, the following order:.

ORDER

I] The application is allowed.

II] In the event of arrest, the applicant be released on bail on executing P.R. bond in the sum of Rs. 25,000/-with one solvent surety in the like amount.

III] The applicant shall remain present before the trial Court on each and every date. If the applicant

remains absent even on a single date, the trial Court is at liberty to take him into the custody.

JUDGE

rkn