

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (MAIN) NO. 44 OF 2019

**MAHARASHTRA V. K. S. S. SOCIETY
LTD., THR. ITS CHAIRMAN, RENUKA
RAJENDRA DESAI.,**

... Applicant

Versus

**STATE, THR. THE POLICE INSPECTOR,
BICHOLIM POLICE STATION, BICHOLIM
AND 2 ORS.,**

... Respondents

Adv. Shivan Desai for the Applicant.
Mr. Pravin N. Faldessai, Addl. Public Prosecutor for Respondent
nos.1 & 2
Adv. Sameer Taleigaonkar for Respondent no.3.

Coram:- C. V. BHADANG, J.

Date:- 2nd April 2019

P.C.:

This application can be disposed off on a short count. By this application, the applicant, who is the original complainant is challenging the order dated 10/1/2019 passed by the learned Sessions Judge in Anticipatory Bail Application no.395/2018, by which, the learned Sessions Judge has granted pre-arrest bail to the respondent no.3, who is the cashier working with the applicant. The anticipatory bail has been granted in the following terms:

"In the event of his arrest, the applicant be released on bail on

his furnishing personal bond of Rs.10,000/- with one surety of like amount to the satisfaction of the I.O subject to the following conditions:

- a) The applicant shall appear before the I.O. as and when called by the I.O.
- b) The applicant shall co-operate in investigation and shall not tamper with the evidence".

2. Mr. Desai, the learned counsel for the applicant points out that although in the application for anticipatory bail, the third respondent has referred to a complaint dated 30/11/2018, there was no such complaint filed and the complaint was filed only on 8/12/2018 and this aspect was never pointed out to the learned Sessions Judge.

3. A bare perusal of the impugned order shows that as on the date on which the order was passed, a statement was made by the Investigating Officer that no offence is registered against the respondent no.3. In such circumstances, there was no occasion for the learned Sessions Judge to consider the application, in the context of any material collected during the investigation, in as much as, there was no formal offence registered, against the applicant as on the date of the passing of the order. The order

does not refer to any specific crime number. It is not possible to conceive any such blanket order being passed granting protection to the accused. Normally, the pre-arrest bail is granted in respect of a specific crime which is registered under particular sections and not otherwise.

4. The learned Additional Public Prosecutor points out that since after the passing of the impugned order, an offence at Crime No.32/2019 has been registered against the third respondent and others on 25/3/2019 for the offence publishable under sections 381, 403, 405, 408, 409, 414, 424, 120B R/w 34 IPC.

5. In that view of the matter, the present criminal application is allowed. The impugned order is hereby set aside. It would however, be open to the third respondent to approach the learned Sessions Judge for seeking anticipatory bail in the changed circumstances, if so advised. If such an application is filed, the learned Sessions Judge shall decide the same on its own merits and in accordance with law.

C. V. BHADANG, J.

ap/-