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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 129 OF 2019**

Ganesh @ Gani Ramchandra Nanekar

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Priyal G. Sarda advocate for the applicant

Ms. S. S. Kaushik APP for the State

Mr. Kumbhar, HC, Chakan Police Station, Pune.

CORAM : NITIN W. SAMBRE, J.**DATE : JANUARY 16, 2019.****P.C.**

In Crime No. 713/018 registered with Chakan Police Station, Pune for offence punishable under Sections 307, 323, 143, 144, 145, 147, 148, 149, 504, 506 of the Indian Penal Code, applicant is seeking pre-arrest bail on the ground that already an offence being Crime No. 695 of 2018 registered with Chakan Police Station, Pune for offence punishable under sections 353, 341, 326, 332, 333, 324, 323, 143, 144, 145, 147, 148, 149, 435 of the Indian Penal Code

and Section 4 & 5 of the Prevention of Damage to Public Property Act, 1984.

2 According to the learned counsel for the applicant, the Apex Court in the matter of **Amitbhai Anilchandra Shah Vs. The Central Bureau of Investigation and Ors**¹ has already declared that for the same incident, second F.I.R. is not maintainable.

3 The learned APP opposed the claim on the ground that in the supplementary statement of the victim, applicant is specifically named. According to her, there are criminal antecedents against the applicant.

4 Considered submissions.

5 In view of the position of Law laid down by the Apex Court in the matter of **Amitbhai Anilchandra Shah** [cited supra] if the contentions of the applicant are appreciated, the basis of the attribution against the applicant in crime no. 713 of 2018 appears to

¹ [2013(6) SCC 348]

be same as that of crime no. 695 of 2018. In that view of the matter, the learned counsel for the applicant was right in claiming that second F.I.R. against the applicant for the same offence is not maintainable.

6 The learned APP though is right in bringing it to the notice of the Court as regards the role attributed and the antecedents, still there is appropriate recourse available to the investigating agency to carry out investigation against the applicant in the first crime. That being so, application for grant of pre-arrest bail is made out. Needless to say that this Court has not appreciated the merits of the matter against the applicant in crime no. 695 of 2018.

ORDER

- (I) Application is allowed.
- (II) In the event of arrest of the applicant in Crime No. 713/018 registered with Chakan Police Station, Pune, he be released on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

(III) Applicant shall attend the Investigating Officer on every Monday and Thursday commencing from 21/01/2019 till 21/02/2019.

(IV) Applicant shall not influence the witnesses or tamper with evidence.

(V) Applicant shall co-operate with investigating agency.

7 Application stands disposed of.

[NITIN W. SAMBRE, J.]