

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1664 OF 2019**

Shamim Bano Nafis Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. S. M. Sabrad for the Applicant

Mr. S. S. Hulke, A.P.P for the Respondent-State

API Mr. Nandkumar Kenjale from Bazarpeth Police Station, Kalyan, District Thane, is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 29th JULY 2019

P.C. :

1 Learned counsel for the applicant, at the outset, states that the observation made by the learned Judge whilst rejecting the applicant's application for anticipatory bail, is erroneous. He relied on para 5 of the impugned order, wherein, the learned Judge has observed that the application is not tenable. Learned counsel for the applicant relies on the judgment of the Apex Court in ***Prem Giri vs. State of Rajasthan***¹. Learned counsel for the applicant submits that no reasons have been disclosed or assigned whilst rejecting the application.

1 (2018) 12 SCC 20

2 The application of the applicant ought to have been considered and decided on merits. An application for anticipatory bail is certainly tenable and as such the observation of the learned Judge is erroneous. In view of the aforesaid, the impugned order dated 23rd July 2019 passed by the Additional Sessions Judge, Kalyan below Exhibit 3 in Anticipatory Bail Application No. 1248 of 2019, is quashed and set-aside and the said Anticipatory Bail Application No. 1248 of 2019 is restored back to its original file. The learned Judge to reconsider the said application on its own merits, uninfluenced by its earlier order dated 23rd July 2019.

3 Application is accordingly disposed of on the aforesaid terms. It is made clear that this application has not been heard on merits.

REVATI MOHITE DERE, J.