

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 958 OF 2020

Avinash @ Yogesh @ Chikya Pandharinath Panchal,
Age : 30 years, Occu. Labour,
R/o Sambhaji Chauk, CIDCO, Nanded,
Tq. & District Nanded

APPLICANT

VERSUS

1. The State of Maharashtra,
through Police Station, Nanded (Rural),
Tq. & District Nanded
2. The District Superintendent of Police,
Nanded, District Nanded

RESPONDENTS

Mr. Vaibhav B. Dhage, Advocate for the applicant
Mr. V.M. Kagne, A.P.P. for the respondents/State

CORAM : MANGESH S. PATIL, J.

DATE : 05.11.2020

PER COURT :

Heard both the sides.

2. It transpires that after filing of the chargesheet, the applicant had submitted an application seeking anticipatory bail under Section 438 of the Code of Criminal Procedure ("Code", for short). It appears that the learned Additional Sessions Judge instead of deciding the application on

merits as it is, asked the applicant to appear in person and expressed intention to decide the application as if it was an application filed for regular bail under Section 439 of the Code.

3. By the order dated 23.10.2020, the esteemed Sister Judge has called an explanation from the concerned Judge for the direction issued by him. The learned Judge has also submitted the explanation.

4. In view of such peculiar state-of-affairs, it would be appropriate to direct the learned Sessions Judge to decide the application under Section 438 of the Code on its own merits and simultaneously, it would be appropriate to place the report received from the learned Judge before the esteemed Sister Judge for consideration.

6. The learned Advocate for the applicant requests that the applicant may be allowed to prosecute the application for anticipatory bail filed under Section 438 of the Code and the learned Judge may be directed to decide it on merits.

7. The application is disposed of in following terms :-

(a) The learned Sessions Judge shall decide the application filed by the applicant under Section 438 of the Code of Criminal Procedure on its own merits.

- (b) The report submitted by the learned Additional Sessions Judge, Nanded be placed before the esteemed Sister Judge for consideration.

[MANGESH S. PATIL]
JUDGE

npj/ABA958-2020