

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.20/2020

Samiulla Khan s/o Zafarulla Khan .vs. State of Maharashtra through PSO P.S.
Kotwali, Tonk, Dist. Tonk, Rajasthan and anr.

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

Court's or Judge's orders.

Ms Maira A. Syed, Advocate for applicant.
Mr. P. S. Tembhare, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : JANUARY 14, 2020

Heard Ms Maira Syed, learned counsel for
applicant.

2. This application is for anticipatory bail. This application is filed for transit anticipatory bail in order to enable applicant to approach appropriate judicial authority in the State of Rajasthan.

3. According to learned counsel for applicant, Police Station Officer, Police Station, Kotwali Tonk, District Tonk, Rajasthan State had been to the house of the applicant on 12.01.2020 to arrest him in connection with an offence punishable under Sections 362 and 366 of the Indian Penal Code (IPC) registered with said Police Station. However, since the applicant was not residing there, he could not be arrested. However, he is having strong apprehension that he may be arrested for the crime.

4. Though, crime number is not disclosed in the application, applicant has disclosed that a crime is registered against him for the offence punishable under Sections 362 and 366 of the IPC.

5. Learned counsel for the applicant submits that applicant will take necessary steps to file regular application before the judicial authority in the District Court, Tonk for pre-arrest bail. However, till the said exercise is done, he be protected.

6. Mr. Tembhare, learned A.P.P. for non applicant-State submits that the application itself is not maintainable since the offence is registered and its commission is beyond the territorial jurisdiction of this Court. He relied on the law laid down by this Court in Anticipatory Bail Application No.1599/2017 in Dr. Augustine Francis Pinto and Ors. .vs. The State of Maharashtra and Ors. in 2017 (4) RCR (Criminal) 673.

7. I have gone through aforesaid decision. Perusal of the decision would show that this Court has made a very detailed survey of various decisions of Hon'ble Apex Court and other Courts in respect of maintainability of application and ultimately ruled in paragraph nos. 13 and 14 as under:

“13. The resume of aforesaid authorities would with certainty lead to hold that the jurisdiction for control and enquiry of Criminal

Courts should be locale commission of crime and not residence of the accused nor place where he might choses to resides and/or found in other part of our country. That the exercise of jurisdiction of anticipatory bail by High Court or the Court of Sessions beyond the local limits of the jurisdiction is limited to the extent of consideration of a bail within its territorial jurisdiction or for the transitional period and it cannot have jurisdiction to transgress into the local limits of the local jurisdiction of any other High Court or Court of Session which is not under under its superintendence and control, within whose Jurisdiction alleged offence has been committed.

14. *In view of the above discussion, I am of the considered view that, the present applications for transit anticipatory bail are not maintainable before this Court.*

Accordingly both Anticipatory Bail Applications bearing Nos.1599 and 1608 of 2017 are rejected. Consequently, both Criminal Applications bearing Nos. 845 and 847 of 2017 in Anticipatory Bail Application No.1599 of 2017 are disposed off.”

8. I am in full agreement with the reasons recorded in order dated 14.09.2017 in the aforesaid two applications.

9. In view of aforesaid observations in paragraph nos.13 and 14 of the case cited supra, I am of the considered opinion that the present application is not maintainable. The application is, therefore, rejected.

JUDGE

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