

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 CRIMINAL APPLICATION NO.1236 OF 2017

The State of Maharashtra

...Applicant

Versus

(1) Abdul Sikandar s/o Abdul Sajid,
(2) Khatija Begum w/o Abdul Sajid

...Respondents

...

APP for the Applicant : Mr. S. B. Narwade

Advocate for Respondent Nos. 1 and 2 : Mr. I. D. Maniyar

...

CORAM : PRAKASH D. NAIK, J.

DATE : 06th OCTOBER, 2021

PER COURT :-

1. The State has preferred this application under Section 439(2) of the Code of Criminal Procedure seeking cancellation of anticipatory bail granted to respondent Nos. 1 and 2 vide order dated 30.11.2016.

2. The respondents were apprehending arrest in C.R. No. 517/2016 registered with City Chowk Police Station, Aurangabad for the offences punishable under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code. They preferred an application under Section 438 of Cr.P.C. before the Court of learned Additional Sessions Judge, Aurangabad. The

application was allowed on certain terms and conditions.

3. In pursuant to grant of anticipatory bail charge-sheet has been filed before the competent Court and the proceedings are pending before the said Court.

4. Learned APP submitted that considering the nature and seriousness of offence, custodial interrogation of the applicant was necessary. The learned Sessions Judge while allowing the application had not taken into consideration the magnitude of the offence. It was necessary to ascertain involvement of any person from the Corporation. Although the charge-sheet is filed against the arrested accused, avenue for further investigation in accordance with the Section 173(8) of Cr.P.C. has been kept open. While allowing the application for anticipatory bail, the accused were directed to attend the police station whenever called for interrogation. However, although they were requisitioned to appear before the Investigating Officer they did not respond. They had attended the Investigating Officer only after the present application was preferred before this Court on 14.05.2019. The impugned order was passed on 30.11.2016. However application has remained pending for quite some time, considering the fact that there was much difficulty in serving the respondents. It is

submitted that the impugned order has been challenged on merits. The learned Judge ought not to have granted anticipatory bail.

5. Learned counsel for the respondents submits that there are no grounds for cancelling anticipatory bail. The impugned order is passed in 2016. The entire matter relates to the documents, custodial interrogation was not necessary. Charge-sheet has been filed. Some of the accused were arrested.

6. While allowing the application the learned Additional Sessions Judge has considered submissions advanced by both the sides. The prosecution had objected the application on several grounds. From the tenor of the order it is apparent that reasons were assigned for allowing the application. In paragraph 4 of the said order, the learned Judge has observed that the documents on record were perused. The forged documents are already in the custody of Corporation. For that purpose custodial interrogation is not necessary. The offence is based on documentary evidence. These documents are already in possession of Corporation. The question of tampering the evidence does not arise. The office was very well aware about the responsible person and for that purpose

the custody of the respondents accused is not required.

7. Learned APP submitted that the respondents had not attended the police station. The order indicates that as and when called the accused shall make themselves available for investigation. In the event of breach of the order it was open to the prosecution at the relevant time to prefer application before the same Court. In any case it appears that after the present application preferred before this Court the respondents had appeared before the Investigating Officer. The charge-sheet is now filed. In the light of these circumstances no case for interfering with the impugned order is made out.

ORDER

Criminal Application No.1236 of 2017 stands rejected and disposed of.

**(PRAKASH D. NAIK)
JUDGE**

shp/-