

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

905 ANTICIPATORY BAIL APPLICATION NO.345 OF 2021

RAJENDRA BHIMAJI SUPNER
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. N.S. Ghanekar, Advocate for the applicant

Mr. S.W. Munde, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 31st MARCH, 2021.

ORDER :

1 Applicant is apprehending his arrest, in connection with Crime No.84/2018 registered with Sonai Police Station, Tq. Newasa, Dist. Ahmednagar, for the offence punishable under Section 302, 201, 341, 143, 147, 148, 149 of the Indian Penal Code, 1860 and under Section 37(1)(3)/135 of the Bombay Police Act, 1951, and therefore, he has filed present application under Section 438 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. N.S. Ghanekar for the applicant and learned APP Mr. S.W. Munde for the respondent.

3 It will not be out of place to mention here that the applicant has filed present application, which is his third application, for grant of anticipatory bail. His earlier Anticipatory Bail Application No.476 of 2018 was disposed of by this Court, as withdrawn on 22.05.2018. Copy of the order has been produced, which shows that after the disinclination was expressed, the learned Advocate representing the applicant sought withdrawal of the application. Thereafter, there was another attempt on the part of the applicant, by filing Anticipatory Bail Application No.1206 of 2018, which also came to be disposed of, as withdrawn on 04.12.2018. Though this applicant has not produced the copy of this order, there is room to believe that it would have been the same order. There is no change in the circumstance as such present applicant is concerned. But then he says that as regards the other co-accused are concerned, the case was committed after the charge sheet was filed and case was separated against them, trial was conducted i.e. Sessions Case no.17/2018 before Additional Sessions Judge, Newasa and by Judgment dated 24.11.2020 the three co-accused have been acquitted. On this ground, the learned Advocate appearing for the applicant submits that when the same evidence would be used against the present applicant and co-accused have been acquitted, the applicant deserves to be granted anticipatory bail.

4 Per contra, the learned APP strongly objected the application and submitted that the applicant is successfully avoiding his arrest, and therefore, the possibility of he going absconding once again cannot be ruled out. His application is not maintainable at all.

5 The copy of the Judgment in Sessions Case No.17/2018 has been produced on record. Though co-accused Nos.1 to 3 have been acquitted, it is to be noted that they all were under trials till the conclusion of the trial. Further, as regards the accused No.4 i.e. the present applicant is concerned, in the same Judgment, standing non bailable warrant has been issued. That means, to the accused, who is absconding and against whom the trial has been conducted as per Section 299 of Cr.P.C., it has been directed by the concerned Trial Court that the standing non bailable warrant should be issued against absconding accused and supplementary charge sheet be filed. It will not be out of place further to mention that in the body of the Judgment at para No.10 it is stated that the present applicant and two companions accused, who were unknown to the informant, were not detected and arrested. Therefore, before proceeding further, definitely warrant would have been issued against the present applicant, but as he could not be traced out the matter proceeded further. Therefore, when the applicant was absconding and could not traced out, he deserves no sympathy

and the discretionary powers to grant anticipatory bail under Section 438 of the Code of Criminal Procedure cannot be used in favour of him. Hence, application stands rejected.

(Smt. Vibha Kankanwadi, J.)

agd