

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION (APL) NO. 292 OF 2021

Mehul Jadavji Shah

... Applicant

V/s.

Ramesh Shah (Dharod) & Anr.

... Respondents

Mr.Abaad Ponda, Senior Advocate a/w. Mr.Dinesh Kadam and Mr.Harsh Buch
i/b. MZM Legal for Applicant.

Mr.S.A. Jabbar i/b. Mr.Rajesh Khobragade for Respondent No.1.

Mrs.Rutuja Ambekar, A.P.P. for Respondent No.2-State.

CORAM : A.S. GADKARI, J.

DATE : 30th March 2021.

PC. :

Two conflicting Orders dated 4th March 2021 passed in Misc. Application No.83 of 2021 in A.B.A. No. 204 of 2018 and dated 9th March 2021 passed in Misc. Application No.96 of 2021 in A.B.A. No. 162 of 2019 has prompted the applicant/original complainant, to approach this Court under Article 227 of the Constitution of India and under Section 482 of the Criminal Procedure Code.

2. Record indicates that, both the aforestated Anticipatory Bail Applications are arising out of CR No.09 of 2018, dated 12th January 2018, under Sections 409, 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code originally registered with Gamdevi Police Station, Mumbai and

subsequently transferred to the Economics Offence Wing (EOW), Mumbai having re-numbered as CR No.05 of 2018.

3. Accused Praful Nanji Satra has filed A.B.A. No. 204 of 2018 and accused Ramesh Shah (Darod) has filed A.B.A.No. 162 of 2019.

That, Misc. Application No.83 of 2021 was moved by accused Praful Nanji Satra for transfer of his A.B.A. No. 204 of 2018 from Court No.24 to Court No.30 on the ground that, the learned Judge presiding in Court No.30 (Shri U.M. Padwad) had partly heard arguments in the said matter. The said application was rejected by impugned Order dated 4th March 2021 passed in Misc. Application No.83 of 2021 and the said A.B.A. No. 204 of 2018 was retained with Court No.24.

That, Misc. Application No.96 of 2021 was filed by accused Ramesh Shah (Darod) for transfer of his A.B.A. No. 162 of 2019 from Court No.24 to Court No.30. By the impugned Order dated 9th March 2021 the said application, i.e. Misc. Application No. 96 of 2021, has been transferred to Court No.30.

It thus clearly appears that, two anticipatory bail applications filed by two different accused persons in same crime are being heard by two different learned Judges of the Sessions Court.

4. Learned counsel for the respondent No.1 vehemently submitted that, both the said anticipatory applications be assigned to the learned

Additional Sessions Judge presiding in Court No.30. Upon a query made by this Court, he could not offer any cogent reason for not hearing the said applications by altogether different Judge than the learned Additional Sessions Judge presiding in Court No.24 and Court No.30. He however insisted that, both the applications be assigned to the learned Judge presiding in Court No.30.

5. In view of the facts mentioned herein above and to have judicial propriety in the matter, it is desirable that, the learned Principal Judge, City Civil & Sessions Court, Greater Mumbai shall assign both the applications i.e. A.B.A. No.204 of 2018 and A.B.A. No.162 of 2019 to one learned Additional Sessions Judge to avoid conflicting views advanced by the learned counsel for the respective parties herein and that to an altogether different learned Judge. This be done within a period of one week from the date of receipt of the present Order.

6. Learned Additional Sessions Judge, to whom the matters will be assigned by the learned Principal Judge, City Civil & Sessions Court, Greater Mumbai, is requested to dispose of both the applications as expeditiously as possible and within a period of six weeks from the date of assigning the said applications to it.

7. Criminal Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]