

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**ANT. BAIL APPLICATION NO.2018 OF 2021**

Bhupesh Kumar Mohanlal Rathod  
& Ors. ... Applicants  
Vs  
The State of Maharashtra ... Respondents  
...

Mr. Kushal Mor with Mr. Kunal Bilaney for the Applicant.

Mr. Ajay Patil , APP for the Respondent-State.

**CORAM : SANDEEP K. SHINDE J.**  
**DATE : 26<sup>th</sup> AUGUST, 2021.**

**P.C. :**

Heard the learned counsel for the applicant and  
the learned Additional Public Prosecutor for the State.

2            Applicant are seeking transit pre-arrest bail for a  
period of four weeks to enable them to approach the Court  
of competent jurisdiction for appropriate reliefs. Applicant  
Nos.1 and 2 are directors of Bell Finvest India Limited.  
Applicant no.3 is a former director of Bell

Consultancy Service Pvt. Ltd. She is daughter of applicant no.1. All applicants are residing in Mumbai. They have firm roots in the society.

3 Applicants are apprehending arrest in connection with Crime No.0469 of 2020 registered at Bajaj Nagar Police Station, Jaipur, Rajasthan for the offences punishable under Sections 403, 406, 420, 467, 468, 471, 477-A r/w 120B of the Indian Penal Code, 1860. This crime came to be registered at the instance of M/s. AU Small Finance Bank, Jaipur. Although the crime was registered in November, 2020, notice under Section 91/160 of the Code of Criminal Procedure, 1973 was issued in January, 2021.

4 Applicants' case is that they may not be able to approach the Court of competent jurisdiction immediately and, therefore, they may be granted reasonable period to approach the Court of competent jurisdiction for seeking pre-arrest protection and till then, they may be granted protection

from arrest.

5            Learned Prosecutor opposes the application, contending that application is not maintainable in law. There is no provision to grant such relief under Section 438 of the Criminal Procedure Code. This Court has no jurisdiction to entertain this application. He would rely on the decision of the Supreme Court in the case of **Sandeep Sunilkumar Lohariya Vs. Jawahar Chelaram Bijlani @ Suresh Bijlani and Others, Special Leave to Appeal (Cri.) No. 4829/2013** dated 14<sup>th</sup> June, 2013. He would rely on the Full Bench decision of Patna High Court in the case of **Syed Zafrul Hassan and Others V/s. State, AIR 1986 194**. He would also refer to the order passed in the case of **Dr. Augustine Francis Pinto and another V/s. The State of Maharashtra and Others, ABA No.1599/2017** decided on 14<sup>th</sup> September, 2017.

6           I have perused the application and annexures appended to it.

7           Although, reference as to power of the Court to grant transit pre-arrest bail under Section 438 of the Criminal Procedure Code, in the case of **Dr. Augustine Francis (supra)**, is pending before the Division Bench, yet Division Bench of this Court (Coram : S.S. Shinde & M.S. Karnik, JJ.) on 10<sup>th</sup> December, 2020 in Criminal Anticipatory Bail Application (St.) No.3041 of 2020 has observed that due to paucity of time, it is not possible to hear the reference on merits. However, considering the factual matrix of the matter, protection as prayed for was granted to the applicants therein.

8           In consideration of the facts of the case and in view of the orders passed by this Court in several such applications, affording transit pre-arrest protection to the

applicant, I am inclined to grant the application. It is granted. Hence, I pass the following order :

**ORDER**

(I) In the event of arrest of the applicants in connection with Crime No.0469 of 2020 registered with Bajaj Nagar Police Station, Jaipur, Rajasthan, the applicants be released on bail on executing P.R. Bond in the sum of Rs.25,000/- each (Rs. Twenty Five Thousand only) with one or more sureties in the like sum.

(ii) This protection is granted for a period of four weeks from the date on which it is uploaded to enable the applicants to approach the Court of competent jurisdiction for seeking appropriate reliefs.

9 In consideration of the facts of the case, application is granted and disposed off.

**(SANDEEP K. SHINDE, J.)**