

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

ANTICIPATORY BAIL APPLICATION NO. 2161 OF 2021

Sarfraz Jaliyawala s/o. Humayu Jaliyawala Applicant

Versus

The State of Maharashtra Respondent

Mr. Sanjiv Kadam, Advocate a/w Mr. Balchandra Patil a/w Mr. Pradeep Agarwal a/w Mr. M.A. Saiyed i/b Mr. Vipin R. Kasle for the applicant.

Ms. K.H. Rajani, Advocate for the complainant.

Ms. Jyoti Lohokare, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th SEPTEMBER, 2021

P.C. :

1. The Applicant had earlier approached this Court for anticipatory bail vide Anticipatory Bail Application No. 1759 of 2021. It was decided on 29/07/2021 and the following order was passed:-

“ 1. After arguing for some time, when I expressed my disinclination to grant relief, learned counsel for the applicant prays for unconditional withdrawal of this application.

2. Permission granted. Application is allowed to be withdrawn unconditionally and is disposed of as such.”

2. In spite of this unconditional withdrawal, this second anticipatory bail application is filed by the same applicant without surrendering before the police. Changes in circumstances claimed by the applicant in this particular application are as follows:-

(I) At the first instance, the co-accused Premprakash Bansal's anticipatory bail application was rejected by this Court (Coram:Sandeep K. Shinde,J.) vide order dated 10/08/2021. In that order some reference was made to Input Tax Credit benefits, allegedly claimed by Bansal and to a letter from GST department. Based on these considerations, co-accused Bansal's anticipatory bail application was rejected vide order dated 10/08/2021. Subsequently, the same co-accused Bansal again approached this Court (Coram: Sandeep K. Shinde, J.) vide Anticipatory Bail Application No. 2027 of 2021 and on this occasion, he was granted interim protection vide order dated 26/08/2021. There is a reference to letter dated 13/08/2021, received by M/s, Bansal

Traders from the office of the Commissioner of Central GST, Belapur.

. Shri Kadam, learned Counsel for the applicant submitted that this is the change in circumstance in favour of the present applicant.

(II) Second change of circumstance claimed by Shri Kadam is regarding the reply given by APMC to the letter of M/s Bansal Traders in the form of a chart wherein goods which are subject matter of the case are not reflected from their record.

3. I have considered these submissions and in my opinion these do not constitute change in circumstances in favour of the present applicant. In the FIR, there are separate allegations against the present applicant.

4. The matter was fully argued when the applicant's earlier anticipatory bail application was withdrawn by the learned Counsel for the applicant. At that time, role of the applicant as well as material against him were fully considered. After hearing

the arguments of learned Counsel for the applicant, when I had expressed my disinclination to allow the application; the application was withdrawn.

5. The letter dated 13/08/2021 sent by GST Authorities to the co-accused has nothing to do with the present applicant. In any case, the particular letter relied on by Shri Kadam dated 13/08/2021 is issued by the Office of the Commissioner of Central GST, Belapur to M/s.Bansal Traders. In the letter it is specifically mentioned that no comments could be offered on whether goods have been supplied or otherwise. In any case, if the co accused Bansal has or has not claimed benefit of Input Tax Credit; it is strictly business of co-accused Bansal. The present applicant, in any case, has nothing to do with such filing of form, by co-accused.

6. Therefore, I do not see any change in circumstances in favour of the present applicant. On the earlier occasion, responsible statement was made by learned counsel for the applicant for withdrawal of the application after the matter was

fully argued and after the material against the applicant was examined. Earlier the application was withdrawn unconditionally. Therefore,I am not entertaining this application. The application is rejected.

(SARANG V. KOTWAL, J.)