

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

ANTICIPATORY BAIL APPLICATION NO. 2212 OF 2021

Manoj Mohan Khandelwal ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Nilesh Pandey i/by Equa Juris, The Law Firm, Advocate for the Applicant.

Mr. R. M. Pethe, APP for the Respondent – State.

Mr. Suresh P. Dedane (P. I.) Manpada Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 20th SEPTEMBER, 2021

PER COURT:

1. This is an application seeking interim protection during the pendency of the application for bail preferred by the applicant before the Court of Additional District Judge-I, Kalyan.

2. The applicant was apprehending arrest in C.R. No. 122 of 2021 registered with Manpada Police Station, Dombivali for offences under Sections 406, 420, 465, 467, 471, 120-B & 506 of Indian Penal Code (for short “IPC”). The applicant was granted interim protection during the pendency of his application before the Court of Additional District Judge-I, Kalyan, vide order dated

7th May, 2021. The application was pending before the said Court and it was adjourned from time to time and the interim protection was extended. Vide order dated 4th August, 2021, the learned Additional Sessions Judge observed that the accused is enjoying interim protection. Dates were given as per his convenience. The Investigating Officer remains present. The application can be adjourned but interim protection will not be continued. The application for adjournment was allowed and interim protection was cancelled.

3. Learned counsel for the applicant submitted that the on most of the date of hearing of the application, the applicant's advocate was present. On 4th August, 2021 also the request was made by the junior Advocate seeking adjournment. In the past the advocate for the applicant had not sought any adjournment. The application was heard from time to time. The rojnama incorporated in the pleadings of this application mentions that on number of occasions the application was heard and the arguments were advanced by the advocate for the applicant. The applicant thereafter, preferred an application for restoration of interim relief which has been rejected by order dated 9th August, 2021.

4. The applicant had preferred Writ Petition No.3146 of 2021 for transfer of proceeding which was disposed of vide order dated 7th September, 2021 with liberty to approach the Sessions Judge for seeking similar relief. Learned counsel for the applicant submitted that thereafter the application for transfer has been moved before the District Judge and the said application is heard and posted on 22nd September, 2021.

5. This application was heard on 13th September, 2021 and since the application before the Sessions Court is due for passing order on 20th September, 2021, it was directed to be listed today. Learned counsel for the applicant submitted that the applicant had never tried to delay the proceeding. The application for transfer is pending before the learned District Judge.

6. On instructions learned Advocate for the applicant submits that the applicant would abide by the order passed by the District Judge in the transfer petition relating to the transfer of proceeding and he would not pursue the proceeding further. The applicant may be granted interim protection pending his application before the Sessions Court. The learned Sessions Judge has adjourned the application to 27th September, 2021. The applicant is without protection since last several days and there is

apprehending that he would be arrested and application for anticipatory bail would become infructuous.

7. Learned APP opposed the application. It is submitted that the proceedings were delayed by the applicant. He had initiated proceedings to transfer the application for anticipatory bail. Hence, the interim relief may not be granted to the applicant.

8. It is noted that for the first time, the learned Additional Sessions Judge has granted interim protection to the applicant on 7th May, 2021. The rojnama pointed out by the learned counsel for the applicant indicate that on several occasions, the arguments were advanced and the application was adjourned. The interim order was vacated on 4th August, 2021. The junior advocate representing the applicant was present in the Court and he had requested for adjournment. Considering the factual aspects I pass the following order:

ORDER

- (i) The interim protection granted to the applicant by the learned Additional Sessions Judge vide order dated 7th May, 2021 is restored and shall continue during the pendency of the application for anticipatory bail preferred by the applicant before the learned Additional Sessions Judge.

(ii) The application for anticipatory bail be decided in accordance with law.

(iii) It is clarified that this Court has not dealt with the application on merits and has not expressed any opinion of transfer petition.

(iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)