

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

CRIMINAL APPLICATION NO. 535 OF 2018

Mr. Kallapa Shankar Bandi

.. Applicant

Vs.

Pramod Raman Ghule & Anr.

.. Respondents

...

Mr. Sandeep R. Waghmare, Advocate for Applicant.

Mrs. M.M. Deshmukh, A.P.P. for the State-Respondent.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 3rd SEPTEMBER, 2021

PC.

1. The applicant is the original complainant. The application is preferred under section 439 (2) of Cr.P.C. challenging the order passed by the Learned Additional Sessions Judge, Niphad dated 11.06.2018 allowing anticipatory bail application preferred by respondent No.1.

2. First Information Report was registered vide C.R. No.I-37 of 2018 under Sections 420, 465, 468, 471 of Indian Penal Code. The respondent No.1 was accused in the said FIR. The FIR was lodged on 17.04.2018. In short, the case of the complainant is that the accused had preferred Writ Petition in this Hon'ble Court in the year 2015 seeking certain relief and relied upon the fabricated documents.

3. The respondent No.1 had approached the Sessions Court by preferring the application under Section 438 of Cr.P.C. Vide order dated 25.03.2018, interim relief was granted to the respondent. The interim protection was confirmed by order dated 11.06.2018.

4. Learned counsel for the applicant submitted that custodial interrogation of the respondent No.1 was necessary. The FIR is maintainable. He is involved in fabricating document. It is necessary to find out whether he was in possession of any other fabricated documents. The original of fabricated document dated 16.10.2014 was required to be seized. The reason for allowing the application reflected in the order of anticipatory bail is erroneous. The offence was of serious nature. The complaint is filed on behalf of the Educational Institution.

5. The FIR was registered in 2018. The application for anticipatory bail was allowed by order dated 11.06.2018. The impugned order indicates that the respondent No.1 was directed to attend the concerned police station once in a week on every Wednesday and shall co-operate with the investigating machinery till filing of charge-sheet. He was also directed to supply his specimen handwritings to the investigating machinery and he shall not pressurize the complainant or the witnesses nor shall tamper with the evidence. Thus, the order indicates that enough safeguards were stipulated in the order

granting anticipatory bail. Learned Sessions Judge has assigned reasons for allowing the application for anticipatory bail. Initially interim protection was granted to the respondent No.1 by order dated 25.03.2018. While granting interim relief, it was observed that the provisions of Section 195 of Cr.P.C. clearly provides that in case any document is filed in any other proceedings, the aggrieved person who can file complaint is the Court itself as the document was filed before the High Court. The complainant has no locus-standi to file the complaint when the matter is subjudice before High Court. The Investigating Officer has taken cognizance of offence in contravention of the provisions Section 195 of Cr.P.C. While allowing the application the Court had observed that such FIR can be filed. It is also observed that physical custody of the accused is not required. In the light of the factual aspects and the circumstances that the FIR was registered in the year 2018 and the application was allowed in 2018 and there is every possibility that the investigation is completed. No case for interfering impugned order is made out.

ORDER

Criminal Application No.535 of 2018 is rejected.

(PRAKASH D. NAIK, J.)