

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 ANTICIPATORY BAIL APPLICATION NO.931 OF 2021

Santosh S/o. Sitaram Venikar
Age 49 years, Occu : Service,
R/o Ayodhya Nagari,
Malegaon Road, Nanded
Tq. and Dist. Nanded

.. Applicant

VERSUS

The State of Maharashtra
Through Police Station Officer,
Kuntoor Police Station,
Tq. Naigaon, Dist. Nanded/
Dy. Superintendent of Police,
C.I.D. Aurangabad

.. Respondent

...
Advocate for Applicant : Mr. R. N. Dhorde, Sr. Advocate i/b.
Mr. V.R. Dhorde and Mr. Akash D. Gade
APP for Respondents: Mr. B.V. Virdhe
...

CORAM : MANGESH S. PATIL, J.

DATE : 18 JANUARY 2022

PC :

Heard the learned Senior Advocate Mr. Dhorde.

2. The applicant is seeking bail in the event of his arrest in connection with crime no. 109 of 2018 registered with Kuntoor Police Station, District - Nanded for the offences punishable under section 166, 201, 406, 409, 420, 467, 468, 471, 477(A), 120(B), 34 of the Indian Penal Code and under section 3 and 7 of the Essential Commodities Act.

3. In my considered view, since this is a third successive application before this Court seeking anticipatory bail, the earlier having been withdrawn when this court expressed dis-inclination to grant anticipatory bail on merits, on 30-07-2020 and 22-02-2021, it would not be necessary for me to reproduce the allegations of the prosecution and narrate the history.

4. The applicant is a District Supply Officer who along with the co-accused, is alleged to have indulged in misappropriation and criminal breach of trust relating to the food grain.

5. The point to be noted is that the parameters for reconsideration of request for grant of anticipatory bail in successive matters are now well settled by the apex Court in the matter of G.R. Ananda Babu Vs. State of Tamil Nadu; Criminal Appeal No. 84/2021 (Arising out of SLP (Cri) No. 213 of 2021; 2021 (1) Crimes 135 (SC). There has to be material change in the circumstances, since rejection of the earlier applications for bail.

6. As can be seen, twice the applicant had failed to secure anticipatory bail. Liberty was granted to him to withdraw the applications when this court had expressed dis-inclination to grant anticipatory bail.

7. A period of more than 1-1/2 year has lapsed since his first application was rejected on 30-07-2020. The applicant inspite of being

a District Supply Officer, is still managing to keep himself outside the clutches of law.

8. It is pertinent to note that, aggrieved by the order of a Division Bench of this Court passed on 18-09-2019 in writ petition no. 1533 of 2018, whereby the investigating machinery was expected to take suitable steps including taking action under section 81 and 82 of the Code of Criminal Procedure against the absconding accused, the applicant had approached the Supreme Court. When the matter was before the Supreme Court, by undertaking to appear before the Investigating Officer in the concerned Police Station within three days, he was permitted to withdraw that proceedings. This undertaking was given before the apex Court on 17-09-2019.

9. In order to demonstrate about having complied with such undertaking, the applicant now produces on record a letter purportedly addressed to the Investigating Officer dated 20-09-2019, mentioning that he was ready to appear before the Investigating Officer and was seeking acknowledgment but no such acknowledgment was given. Believing him, it would demonstrate that this had happened on 20-09-2019.

10. During this period of more than 2 years, at no point of time, he seem to have taken any step either to approach the Magistrate concerned or this Court or even the Supreme Court, showing his inability to comply with the undertaking furnished before the apex Court

because of the attitude of the investigating machinery. In spite of such state-of-affairs, he was bold enough to approach this Court seeking anticipatory bail twice, as mentioned earlier when perhaps for the selfsame reason, this Court refused to grant anticipatory bail to him.

11. All these facts and circumstances clearly indicate that the applicant is hell-bent, in not subjecting himself to the investigation. Precisely for this reason, even the Investigating Officer now submits that he is not co-operating in the investigation.

12. To repeat, bearing in mind the principles laid down by the Supreme Court in the matter of G.R. Ananda Babu (supra), I find no sufficient and cogent reason to reconsider the request of the applicant for grant of anticipatory bail.

13. The Application is rejected.

[MANGESH S. PATIL]
JUDGE

arp/