

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1174 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO. 1587 OF 2021

Paresh R. Patil ...Applicant
V/s.
The State of Maharashtra and anr. ...Respondents.

Mr. N.N. Gawankar a/w. Mr. Shreyas N. Gawankar i/b Mr. Manas N. Gawankar for the Applicant.
Ms Rutuja Ambekar, APP for the Respondent/State.
Mr. Vivek Rane for Respondent No.2.

CORAM : N.R. BORKAR, J.
DATE : 06.12.2022.

P.C. :

1. The applicant has made the following prayers:

"a. This Hon'ble court be pleased to modify the order dated 10-03-2022 passed by this Hon'ble Court in Anticipatory Bail Application No. 1587 of 2021 by adding the following condition:

4. In the event that the outcome of C.R. No. 123 of 2021 registered with Panvel Taluka Police Station is in favour of the applicant, the Respondent No.2 shall repay the amount of Rs.6,00,000/- to the applicant with an interest of 10% per annum from the date of withdrawal of the amount from the registry of this Hon'ble Court by Respondent No.2 till the date of realisation of payment."

b. Such other and further orders be passed as this Hon'ble court may deem just, fit and proper in the interest of justice."

2. This Court by order dated 10 March 2022 allowed the anticipatory bail application filed by the present applicant. The said order reads thus:

1. By a detailed order dated 03.08.2021, this Court had granted interim protection to the Applicant. Subsequently, on 24.08.2021 a statement was made on behalf of the Applicant that the Applicant is ready and willing to offer the amount as mentioned in the complaint. Thereafter, on 03.09.2021, a statement was made on behalf of the Applicant that without prejudice to his defence, the Applicant is desirous of "making over the amount of Rs.6 lakhs to the complainant" which is the amount mentioned in the FIR.

2. On the last date i.e. 07.03.2022, this application was adjourned in order to enable the Applicant to deposit the amount. Today the learned counsel for the Applicant states that the amount has been deposited. The office report also shows that a demand draft in the sum of Rs.6 lakhs has been deposited on 08.03.2022. The learned counsel for the Applicant has no objection for payment of the said amount to the complainant, subject to the rival contentions of the parties being left open.

3. In such circumstances, the criminal application is disposed of in terms of order dated 03.08.2021. The amount of Rs.6 lakhs deposited before this Court shall be paid to the complainant/informant on proper identification. This shall be without prejudice to the rival contentions of the parties at the trial of the case."

3. Pursuant to the above-mentioned order, the complainant has withdrawn the said amount of Rs.6 lakhs.

5. The learned counsel for the applicant submits that the trial is still at the stage of charge and will take long time to conclude. It is submitted that the complainant cannot be allowed to use the

amount in question without interest for long time and therefore, the order dated 10 March 2022 needs to be modified to that extent.

6. The submission of refund of amount in question with interest ought to have been made at the time of hearing of anticipatory bail application. On the contrary, the applicant has stated before this Court that he has no objection, if the amount in question is paid to the complainant. I am, therefore, not inclined to entertain the present application. Accordingly the Interim Application is disposed of.

7. The Trial Court shall, however, endeavour to dispose of Criminal Case No. 971 of 2021 as early as possible.

[N.R.BORKAR, J.]