

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APPLN) NO. 187 OF 2018**

The State of Maharashtra

... Applicant

V/s.

Suresh Bhai Amruth Bhai Prajapathi

@ Suresh Prajapathi s/o. Amruth Bhai Prajapathi

... Respondent

Mr.S.S. Hulke, A.P.P. for Applicant-State.

None for Respondent.

CORAM : A.S. GADKARI, J.**DATE : 12th July 2022.****P.C. :**

1. This is an application for cancellation of bail granted to Respondent by the learned Additional Sessions Judge, City Civil & Sessions Court, Boriwali Division, Dindoshi, Mumbai by its impugned Order dated 1st November 2017 in Criminal Bail Application No. 630 of 2017 in C.R. No. 260 of 2017 registered with Sahar Police Station, for the offence punishable under Sections 370, 420 read with 34 of the Indian Penal Code (for short, 'I.P.C.') and Sections 18 & 19 of Transplantation of Human Organs and Tissues Act, 1994 (for short, 'the said Act').

2. Perusal of record indicates that, in the present case, the crime was registered on the basis of a complaint lodged by the informant, who was working with Intelligence Bureau and was then posted with SIB, Mumbai,

deployed at Chatrapati Shivaji International Airport Mumbai.

3. Section 22 of the said Act specifies that, no Court shall take cognizance of an offence under the said Act except on a complaint made by the Appropriate Authority concerned or any Officer authorized in that behalf by the Central Government or the State Government or, as the case may be. Section 13 of the said Act prescribes and specifies the term 'Appropriate Authority'.

4. In the present case, admittedly the complaint/F.I.R. is not lodged by the 'Appropriate Authority'. The Respondent was arrested on 6th September 2017 and was released on 1st November 2017 after undergoing custodial interrogation and judicial custody. Respondent was granted bail by the Trial Court predominantly on the ground of non-compliance of Section 22 of the said Act by the Police. The said legal position of non lodgment of complaint by Appropriate Authority has weighed in the mind of the Trial Court.

5. In view thereof, this Court finds that, the Trial Court has not committed any error either of law or on facts while releasing the Respondent on bail.

6. Present Application being *dehors* of merits is accordingly dismissed.

[A.S. GADKARI, J.]