

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1580 of 2021
WITH
CRIMINAL WRIT PETITION NO. 1028 OF 2021
(corrected as per order dt.30/9/2022)

Athilinga Perumal Dason	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr.Aabad Ponda, Sr. Advocate with Sharian Mukherji for the applicant in both the matters.

Mr.B.K. Barve with Sandeep Barve i/b B.K. Barve & Co. for respondent no.2.

Ms.A.A.Takalkar, APP for the State.

PSI S.U. Jondhale from Wagale Estate police station in ABA 1580/21.

PSI M.B. Kawale from AEC Crime Branch, Thane in WP 1028/21.

CORAM: BHARATI DANGRE, J.

DATED : 26th SEPTEMBER, 2022

P.C:-

ABA No.1580/2021

1 The applicant face accusation in C.R.No.71 of 2021 registered with Wagale Estate police station and by exhaustive order passed on 16/7/2021, he was admitted to protection from arrest, by specifically recording the background, that another FIR

dated 3/6/2020 lodged by informant's brother also invoked Section 406 and 420 IPC which had a reference to some land dealing. By referring to the interconnection between the two incidents in paragraph no.5, the applicant was admitted to protection.

This protection is continued from time to time and is in operation till date.

2 Today the learned APP in presence of the Investigating Officer, Mr.Jondhale, who is present in the Court states that the investigation is over and charge-sheet is likely to be filed within a week.

In the wake of the above, since the custodial interrogation is not warranted and as the investigation is complete, the interim order dated 16/7/2021 is made absolute.

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3 By order dated 19/8/2020, the learned Sessions Judge-3, Thane admitted the applicant to protection by directing him to furnish P.R bond of Rs.One lakh with one or two solvent sureties in the like amount and he was directed to report to the Investigating Officer on the given date.

Since there was no compliance, this order came to be cancelled on 15/12/2020, pursuant to which the applicant approached this Court and by order dated 19/1/2021, this Court stayed the order cancelling the Anticipatory Bail granted to the

applicant and on being satisfied with the justification offered, that the applicant is a native of Tamil Nadu and hence did not attend the police station and this do not amount to breach of condition. Right or wrong, the applicant garnered an impression that compliance of the order was imperative only when he was arrested and since he was not arrested, he failed to report to the police station.

This comes in response to the learned APP's specific submission that despite order of protection granted in his favour and the Investigating Officer addressing a communications to him, on 28/8/2020 and 8/9/2020, he did not report to the police station.

4 The learned Senior counsel Mr.Ponda fairly state that the applicant ought to rectify his impression and he shall immediately comply with the conditions of his release by furnishing the bonds as directed by the Sessions Court within a period of two weeks from today. However, Mr.Ponda makes a specific statement that during this period, he shall furnish cash surety to the tune of Rs.One lakh.

The applicant shall report to the Investigating Officer on 6th, 7th and 8th October 2022 and render his co-operation.

5 Depending upon the aforesaid compliance, the order dated 19/8/2020 passed by the Addl. Sessions Judge, Thane is confirmed.

6 Needless to that that if there is further default on part of the applicant, the complainant as well as the prosecution are entitled to take out another application for cancellation of bail.

(SMT. BHARATI DANGRE, J.)