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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1693 OF 2022

Anil s/o Ramchandra Tinani .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Ashok M. Saraogi for the Applicant.

Ms.A.A.Takalkar, A.P.P. for the State/Respondent.

Mr.Vilas Tambe, PSI attached to Dindoshi Police Station,
present.

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CORAM: BHARATI DANGRE, J.

DATED : 27th JUNE, 2022

P.C:-

1. Heard the learned counsel Mr.Saraogi for the applicant
and the learned A.P.P.

2. The learned A.P.P. raise an objection about the
maintainability of the present application, in form of an
anticipatory bail application, in the teeth of the order passed
by the Hon'ble Supreme Court on 09/03/2022.

The order passed by the Hon'ble Supreme Court is also
placed on record.

3. The learned counsel Mr.Saraogi has invited my attention to the subsequent events and it is necessary for me to refer to the same.

4. The applicant alongwith co-accused persons had approached this Court by filing distinct anticipatory bail applications in connection with C.R.No.56 of 2020, registered with Dindoshi Police Station, Mumbai on 25/01/2020 invoking Section 420 read with Section 34 of the Indian Penal Code and Sections 13 and 14 of the Maharashtra Ownership of Flats (Regulation of the Promotion, Construction, Sale, Management and Transfer) Act, 1963.

On considering the merits of the matter, the learned Single Judge of this Court (Coram : Sarang V. Kotwal, J.) clearly rendered a finding that the applicants' role, as described in the F.I.R as well as in the investigation carried out so far, has clearly surfaced and many victims have suffered monetary loss. Resultantly, a conclusion is derived that no case is made out by any of the applicants before the Court for protection from arrest.

5. Against the said order, the applicant individually filed a Special Leave Petition (Cri) No.1973 of 2022 and on 09/03/2022, the Hon'ble Supreme Court recorded the

statement advanced on behalf of the petitioner that the other accused persons have already been granted bail, one by the Hon'ble Supreme Court itself on 27/01/2022 and the others by the Sessions Court vide order dated 08/11/2021. In the background of the said fact brought before it, Their Lordships of the Hon'ble Supreme Court, passed the following order.

“Having heard learned counsel for the parties and considering the facts of this case, we dispose of this special leave petition with the direction that if the petitioner files an application for grant of bail before the Trial Court, the same shall be considered and decided as expeditiously as possible and in accordance with law.

For a period of three weeks from today or till the bail application is decided by the Trial Court, whichever is earlier, no coercive action shall be taken against the petitioner.

The special leave petition is, accordingly, disposed of. Pending application(s), if any, stands disposed of.”

6. When the above order is carefully read, it is apparent that the petitioner was granted liberty to approach the Trial Court, seeking his release on bail and the Trial Court was issued a direction that it shall expeditiously decide the same. In order to avail the said remedy before the Trial Court, protection of three weeks or till the bail application is decided

by the Trial Court, was also granted by stating that no coercive action shall be taken against the petitioner.

7. Accordingly, the applicant approached the Trial Court on 31/03/2022 and once again, considering the merits of the matter, his bail application was rejected.

8. The subsequent event which is brought on record by Mr.Saraoi is a Criminal Application filed by the four accused persons, namely, Saif Gulam Abbas Kallan, Abdul Zoheb Ahmed Abdul Aziz Khan, Raychel Sheila Raymond D'Souza and Mohammed Fahat Abdul Aziz Khan, wherein they sought a following relief :-

“That this Hon’ble Court be pleased to protect the Applicants by issuing an Order of no coercive action, in FIR No.201 of 2021 pending on the file of Dindoshi Police Station, in view of the Applicants depositing the Demand Draft and Cheques towards settlement.”

The application specifically stated that the applicants before the Court had deposited the agreed amount of Rs.7.25 crores and, therefore, they sought extension of protection granted by the Court with a commitment that the post dated cheques shall be honoured.

Needless to state that the applicant is not a party to the said proceedings. On 10/06/2022, the Division Bench of this Court, recorded as under :-

“2. Parties have amicably settled the matter and entered into settlement, however we would request the learned APP to inform the antecedents, if any, of the accused/Applicants on the next date.

3. Applicants have got a demand draft of Rs.1 Crore in Court to be given to the complainant. The balance payment is sought to be paid in 3 installments upto September, 2022 by post dated cheques. Complainant shall give appropriate instructions to his Advocate regarding acceptance of the proposal for settlement.”

9. In the sequence of events, I do not think that the applicant is entitled for any protection, since he is not a party to the proceedings before the Division Bench of this Court and, since, his bail application is rejected on merits by the Trial Court, he is at liberty to assail the said order, but surely cannot seek protection from arrest, by filing the anticipatory bail application.

In the wake of the above, the application is rejected.

(SMT. BHARATI DANGRE, J.)