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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2360 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.2892 OF 2021**

Nitin Ramchandra Gavand	]	..	Applicant/Intervenor
IN THE MATTER BETWEEN			
Shonak Dilip Kirkire	]	..	Applicant/accused
vs.			
State of Maharashtra	]	..	Respondent

Mr.Karansingh Rajput for Intervenor.

Mr.Ninad Muzumdar for Applicant.

Mr.S.V. Gavand, APP for State.

CORAM : BHARATI DANGRE, J

DATE : 2ND AUGUST, 2022.

P.C.

1] By the present application, the applicant seeks withdrawal of amount of Rs.2 Crores directed to be deposited with the Investigating Officer by order dated 03.12.2021.

2] On 03.12.2021, while hearing the Anticipatory Bail Application filed by the accused Shaunak Kirkire, learned counsel for the Applicant on instructions made a statement that amount of Rs.2 Crores as against the claim in F.I.R. shall be deposited by him with the

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Investigating Officer. The same was taken as undertaking to the Court and further statement was also made that further amount shall also be deposited.

3] Upon this statement, ad-interim order passed by the Court below was continued. It was also directed that if the amount is not deposited by the given date, interim protection shall cease to operate without further reference to the Court. The said amount came to be deposited with the Investigating Officer in the month of May and June, 2022.

4] The Anticipatory Bail Application was withdrawn on 12.07.2022, since on filing of charge-sheet, the accused is desirous to approach the Sessions Court. Accordingly the application was disposed of as withdrawn.

5] The withdrawal of amount is strongly opposed by the learned counsel for the applicant/accused saying that the accused has disbursed his liability as alleged in the F.I.R.

6] In any case, it is only at the end of the trial, the liability can be determined and as to whether the accused is guilty of the offence under Section 420 of the Indian Penal Code or not.

7] The learned counsel for the applicant seeks withdrawal of amount. He submits that this liability was accepted by the applicant/accused, pursuant to which he deposited the amount. I do not agree with the said submission as on the statement being made by the accused, the amount was directed to be deposited and in any case now this court is not seized of the Anticipatory Bail Application, since it has

been withdrawn and in fact it is open to the applicant to make appropriate application before the Sessions Court since it is informed that pursuant to filing of charge sheet the accused has to approach the Sessions Court seeking his release on bail. In any case, the amount is not lying with this Court, but it was directed to be deposited with the Investigating Officer and upon application being made, the Sessions Court may decide the same. Since the Anticipatory Bail Application has already been withdrawn, the present application cannot be granted. Hence, it is rejected.

[BHARATI DANGRE, J]