

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2463 OF 2022
ALONGWITH
INTERIM APPLICATION NO.3384 OF 2022

IN

ANTICIPATORY BAIL APPLICATION NO.2463 OF 2022

Hridayshankar Shivprasad Dubey] .. Applicant

vs.

State of Maharashtra] .. Respondent

ALONGWITH

ANTICIPATORY BAIL APPLICATION NO.2466 OF 2022

Mamta Hridayshankar Dubey & Anr.] .. Applicants

vs.

State of Maharashtra] .. Respondent

Mr.S.P. Pasbola i/b Rahul Arote for the Applicants.

Mr.S. Mamania for the Intervenor.

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

API Padval, Miraroad Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 10th OCTOBER, 2022.

P.C.

1] Considering the nature of accusation levelled against the present Applicants in the subject CR, which invite imprisonment upto 7 years, when API Padval, Investigating Officer is asked as to why notice under Section 41A of the Cr.P.C. has not been issued, he is unable to offer any explanation.

2] When particularly asked as to whether he is aware of the Standing Order No.3/2022 issued on 20.07.2022 which has reiterated the principles enunciated by the Hon'ble Apex Court in the case of ***Arnesh Kumar vs. State of Bihar & Anr. (2014) 8 SCC 273 as well as Satenderkumar Antil vs. Central Bureau of Investigation & Anr. (2021) 10 SCC 773***, where the responsibility is fastened upon the Police Station in charge and the Investigating Officer to abide by the directions, the Investigating Officer states that he is aware of the notice issued by the Director General of Police.

This is indicative to the fact that the Standing Order No.3/2022 is circulated to every Police Station as directed by this Court in its order dated 05.08.2022 in Anticipatory Bail Application No.2142/2022. But the only question is about hesitancy on part of the police officers to abide by the said directions.

3] Just to remind the Investigating Officer in the present CR as well as other officers who are expected to adhere to the said directions, which has made it imperative to follow the said guidelines and not only this, the Commissioner of Police, Superintendent of Police and SDPOs are held responsible for effecting the said guidelines, in exercise of their power as superior officers for ensuring that arrest is justified and procedure laid down is followed.

4] Though the officer present before me is not denying the fact that he was aware of the guidelines, he has failed to adhere to the same.

Hence, this should be brought to the notice of his superior i.e. Police Inspector of Miraroad Police station. Though I do not intend that any departmental action shall be initiated, suffice to note that warning should be issued to the concerned Officer so that he shall abide by the

guidelines issued vide Standing Order No.3/2022.

5] Let the Investigating Officer issue notice under section 41A of the Cr.P.C. within a period of 3 days from today and the Applicants shall report to the Investigating Officer within a period of 7 days from today.

6] Upon their presence, the Investigating Officer shall follow procedure prescribed under Section 41A of the Cr.P.C. and record reasons in case if he comes at a conclusion that custodial interrogation of the Applicants is very much necessary for completing the investigation. He shall also issue 72 hours notice in advance in case if he is desirous of effecting arrest.

7] In the wake of above, Applications are disposed off. Interim Application is also disposed off.

[BHARATI DANGRE, J]