

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3710 OF 2022

Sanjay Nemchand Dodhia & Anr. ... Petitioners

V/s.

The State of Maharashtra & Anr. ... Respondents

Mr. Ganesh Gole with Mr. Ateet Shirodkar & Ms. Piyusha Patil i/by Mr. Ritesh Ratnam for the petitioner.

Mr. R.M. Pethe, APP for the respondent no.1/State.

Mr. Omkar Gharat i/by Raviraj Parmane for the respondent no.2.

Mr. Vikram Mohite, Police Inspector, Shanti Nagar Police Station, Bhiwandi, Thane, is present.

Digitally
signed by
ATUL
GANESH
KULKARNI
Date:
2022.11.29
11:02:36
+0530

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 28, 2022

PC.:

1. The petitioners are challenging order dated 6th August 2022 issuing proclamation in a prosecution arising out of C.R. No.45 of 2018. The petitioners are arraigned as accused in C.R. No.45 of 2018 registered with the Shanti Nagar Police Station, Bhiwandi, Thane. Additionally, the complainant filed private complaint bearing No.2873 of 2018 alleging that the petitioners have relied on forged documents in Criminal Anticipatory Bail Application No.1036 of 2018. The application for anticipatory bail was rejected by the learned Sessions Judge vide order dated 12th July 2022.

This Court permitted the petitioners to withdraw the said anticipatory application with liberty to approach afresh after the disposal of Criminal Writ Petition No.2705 of 2018 wherein the proclamations in R.C.C. No.,2873 of 2018 was under challenge. On 29th August 2022 the Trial Court recorded the order of proclamation in R.C.C. No.2873 of 2018 and, therefore, the petitioners approached this Court by way of Anticipatory Bail Application No.2524 of 2022, which permitted the petitioners to approach the learned Magistrate.

2. In the meantime, the learned Magistrate by order dated 6th August 2022 issued proclamation against the petitioners. The petitioners filed an application for recall of proclamation and cancellation of bailable warrant which has been rejected by the impugned order dated 20th September 2022. The petitioners have, therefore, filed the present petition.

3. This Court by order dated 12th October 2022 granted stay to the order of proclamation and directed the petitioners to cooperate with the investigation.

4. The investigating officer is present in Court and stated that the petitioners are cooperating with the investigation. Learned advocate for the petitioners, on instructions, states that the petitioners will attend the dates before the learned Magistrate unless exempted by the learned Magistrate.

5. In view of the statement of the investigating officer that the petitioners are cooperating with the investigation and the undertaking on behalf of the petitioners that they will attend the

proceedings before the learned Magistrate unless exempted by the learned Magistrate, the order of issuance of proclamation deserves to be quashed and set aside. Hence, following order:

The impugned order dated 6th August 2022 issuing proclamation against the petitioners is quashed and set aside.

6. Rule is made absolute in above terms. No costs.

(AMIT BORKAR, J.)