

Diksha Rane

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

ANTICIPATORY BAIL APPLICATION NO.3250 OF 2022

IRFAN SAYEED KHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Sandesh D. Patil a/w. Ms. Divya A. Pawar i/b. Mr. Jaideep Patkar for the applicant.

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

Mr. Vivek S. Valte, PSI, Thane Civil Police Station.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 22, 2022.

P.C. :

1. The applicant is seeking pre-arrest bail in respect of the offence punishable under Sections 420, 465, 467, 471 of the Indian Penal Code in connection with C.R.No.0158 of 2022 registered with Thane Nagar Police Station, Thane (west).

2. Learned APP points out that a notice under Section 41A of the Code of Criminal Procedure (hereafter 'the Cr.PC' for short) was served upon the applicant. However, he failed

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to report to the Investigating Officer.

3. Learned counsel for the applicant submitted that reply to the notice was furnished. The applicant instead of reporting to the Investigating Officer preferred to file an application for anticipatory bail before the Sessions Court which came to be rejected. Learned counsel for the applicant, on instructions, submits that the applicant is willing to report to the Investigating Officer in compliance to the notice under Section 41A of the Cr.PC on the dates as may be specified.

4. My attention is invited to the order dated November 11, 2022 passed by this Court (Coram: Smt. Bharati Dangre, J.) in Anticipatory Bail Application No.3112 of 2022. Paragraph 2 reads thus: -

"2. In the wake of the decision of the Hon'ble Apex Court in case of Satender Kumar Antil vs. CBI 2022 SCC online SC 825. It is imperative that the notice is issued under section 41A of Cr.P.C in case of offences which are punishable with imprisonment up to 7 years and in terms of the order issued by the Director General of Police Vide direction No. 3 of 2022 dated 20/07/2022. The Investigating Officer has issued the

notice as directed and the applicant is duty bound to abide by the said notice.

The learned counsel for the applicant state that the applicant shall report to the Investigating Officer within a period of 7 days from today. Upon her presence the Investigating Officer shall investigate her and before he arrive at the conclusion that the custodial interrogation of the applicant is necessary he shall record reasons in writing to that effect. In case if he want to effect the arrest in the wake of the reasons recorded by him he shall give 72 hours notice in advance to the applicant."

5. In this view of the matter, learned APP submitted that in the first instance, the applicant should report to the Investigating Officer on 28th, 29th and 30th November, 2022, between 11.00 a.m. and 1.00 p.m. Learned counsel submits that the applicant will attend on these dates and later as and when called. The statement is accepted.

6. Upon the applicant reporting to the Investigating Officer, he shall investigate him and before the Investigating Officer arrives at the conclusion that the custodial interrogation of the applicant is necessary he shall record reasons in writing to that effect. In case if he wants to

effect the arrest in the wake of the reasons recorded by him
he shall give 72 hours notice in advance to the applicant.

7. The application is disposed of.

(M. S. KARNIK, J.)