

Santosh

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

**CRIMINAL APPLICATION NO. 1471 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO. 922 OF 2018**

Avikumar Dhondiram Dhule ...Applicant

Versus

State of Maharashtra ...Respondent

WITH

CRIMINAL APPLICATION NO. 19 OF 2019

IN

CRIMINAL APPLICATION NO. 1471 OF 2018

Mr. Vijendra Kumar Rai, a/w Mr. Iram Sayed, for the
Applicant.

Ms. J. S. Lohakare, APP for the State.

Mr. Niranjan Mundargi, i/b Mulla & Mulla, for the Intervener.

CORAM: N. J. JAMADAR, J.

DATED : 15th JUNE, 2022

PC:-

1. Heard the learned Counsel for the applicant.
2. This application is preferred for seeking permission to withdraw the amount of Rs.50,00,000/- deposited by the applicant in ABA/922/2018.
3. The applicant was arraigned in CR No.56 of 2017, registered with Mahad Taluka Police Station, Raigad, for the offences punishable under Sections 406, 420, 467, 468, 471 r/w 34 of the Indian Penal Code, 1860 ("the Penal Code"). The applicant preferred an application for pre-arrest bail, being

Anticipatory Bail Application No.922 of 2018. In the said application, on 3rd May, 2018, a statement was made by the learned Counsel for the applicant that he would seek instructions with regard to the deposit of Rs.50,00,000/- before this court. On 4th May, 2018, after considering the submissions on behalf of the applicant that, to show the applicant's bonafide, the applicant would deposit an amount of Rs.10,00,000/-, interim protection was granted to the applicant. Over a period of time, the applicant claimed to have deposited a total sum of Rs.50,00,000/-.

4. Eventually, on 25th October, 2018, the said application came to be disposed of as having been rendered infructuous as the applicant was arrested in the subject crime. At that point of time, the applicant sought permission to withdraw the amount, which was deposited by the applicant. Observing that the applicant was at liberty to file an application for withdrawal of the said amount, the Anticipatory Bail Application No.922 of 2018, came to be disposed.

5. The first informant – intervener has filed Intervention Application No.19 of 2019 and resisted the prayer for withdrawal. An affidavit-in-reply is filed by the first informant.

6. I have heard the learned Counsel for the applicant and the learned Counsel for the first informant – intervener.

7. An endeavour was made on behalf of the intervener – first informant to demonstrate that there is no material to show that the applicant had deposited the amount without prejudice to his rights and contentions. Since interim protection was granted to the applicant, the applicant cannot be permitted to withdraw the said amount.

8. I have carefully perused the orders passed by this Court. It is pertinent to note that on 4th May, 2018, while interim protection was granted to the applicant, this Court expressly noted that the applicant was making the said deposit to show his bonafide. Indisputably, the application for pre-arrest bail came to be disposed of as having been rendered infructuous on account of the arrest of the applicant, in the intervening period. The orders do not indicate that the deposit of the amount was a directive from the Court, subject to which the interim protection was granted. It would not be in the interest of justice that, on the one hand, the relief of pre-arrest bail is not granted and, on the other hand, the amount which was deposited to show bonafide of the applicant is also withheld.

9. In the circumstances, I am impelled to allow the application. Hence, the following order:

: O R D E R :

- (i) The application stands allowed.
- (ii) The amount which has been deposited by the applicant Avikumar Dhondiram Dhule in this Court, in ABA/922/2018, be refunded to the applicant on proper identification and as per rules.
- (iii) The application stands disposed.

In view of disposal of the application, the Intervention Application No.19 of 2019 also stands disposed.

[N. J. JAMADAR, J.]