

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2064 OF 2023**

Santosh Narayan Shetty

... Petitioner

V/s.

The State Of Maharashtra And Anr.

... Respondents

Mr. Santosh Pandey with Mr. Nagesh Avhad i/b SBG Law for Petitioner.
Mrs. M. H. Mhatre, APP for Respondent-State.

**CORAM : A.S. GADKARI AND
SHARMILA U. DESHMUKH, JJ.**

DATE : 6th SEPTEMBER, 2023.

PC. :

1. Present Petition is filed for following substantive reliefs :

“(a) that this Hon’ble Court may be pleased to issue Writ of Certiorari and/or any other appropriate Writ, Order and/or direction in the nature of Certiorari thereby calling for the records and proceedings concerning FIR bearing C.R. No. I-19 of 2015 registered with Vadivarhe Police Station and the charge sheet filed against the present Petitioner and after examining the legality, validity and/or propriety thereof, may be further pleased to quash and set aside the said FIR, consequential Charge sheet bearing No. 27 of 2016 and the criminal proceeding bearing Special (MCOC) Case No. 1 of

2016 pending before the Special Court at Nashik as far as the Petitioner is concerned.

(b) In the alternative, this Hon'ble Court may be pleased to set aside the impugned order passed by the Ld. Special Judge in Anticipatory Bail Application No. 1439 of 2018 dated 23/10/2018 and be pleased to release the petitioner on pre-arrest bail on such terms and conditions as may be deemed fit and proper by this Hon'ble Court."

2. As far as prayer clause (a) is concerned, it is an admitted fact on record that, after completion of investigation of present crime, police have submitted charge-sheet and the same has now been numbered as Special (MCOC) Case No.1 of 2016 and is pending for final adjudication. Petitioner therefore is having alternate remedy to file an Application for discharge, if so advised and as may be permissible under the provisions of law.

3. As far as prayer clause (b) is concerned, there is an express bar under Section 21(3) of MCOC Act for granting pre-arrest bail under Section 438 of the Cr.P.C. The said prayer therefore can not be entertained under Writ Jurisdiction under Article 226 of the Constitution of India.

4. Petition is accordingly disposed off by reserving the alternate remedy in favour of Petitioner as far as prayer clause (a) is concerned.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)