

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 112 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.2458 OF 2022

Nagma Dar .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Ms. Sana Raees Khan a/w Adv. Aditya Parmar for the applicant
for the applicant.

Mr. Devendra Avhad, a/w Ms. Ruchika Indalkar, Mr. Ajaz Khan,
Mr. Jitendra Jagtap for intervenor.

Ms. P.N. Dabholkar, APP for the State.

Mr. Dilip Daingade, PI, Juhu Police Station.

CORAM: BHARATI DANGRE, J.

DATED : 11th APRIL 2023

P.C:-

1 In furtherance of the order dated 27/03/2023, the application seeking restoration of the proceedings of Anticipatory Bail Application (2458 of 2022), the necessary amendment has been carried out. In para 9 of the application, a specific plea is taken to the effect that the application came to be withdrawn without instructions and rather in contrast to the instructions to invite an order.

2 In the wake of the ground being inserted, and it being a settled position of law that a party cannot be made to suffer on account of a lapse committed by counsel, I deem it appropriate to restore the application.

Another ground which prompt me to allow the restoration, despite the Apex Court upholding the order, but permitting the applicant to seek a recall of the order dated 6/10/2022, is a settlement that is effected between the parties.

The amendment in the application contain a specific ground that the dispute between the parties has not now been settled and based on this, in case of three other co-accused, who came to be admitted to interim protection by the High Court in three distinct bail applications, on 27/2/2023, by referring to the settlement.

3 Para 12 of the application (amended portion) also make a specific averment to the effect that the parties involved in CR No.83 of 2022 registered with Santacruz Police Station, have amicably settled their dispute and filed a petition for quashing of the FIR by consent, which is pending for adjudication.

In the wake of the aforesaid, I deem it appropriate to allow the interim application in the wake of the liberty granted by the Hon'ble Apex Court and as a consequence ABA No. 2458 of 2022 stand restored to its file.

IA No. 112 of 2023 stands disposed off.

4 On the ABA being restored, my attention is invited to the order passed in case of the co-accused, where their protection granted from arrest is confirmed. I see no hesitancy, why the benefit shall not be granted to the present applicant, who is also one of the co-accused and the settlement is worked out between the parties, which is presented before this Court through a petition filed for quashing of the FIR and the present applicant is also signatory to the said consent terms.

5 Therefore, since it is informed that the Interim order granted in favour of the co-accused has been confirmed today by this Hon'ble Court (Justice Anuja Prabhudesai) in ABA No.3344/2022, ABA No. 3346/2022 and ABA No. 3457/2022, the applicant deserve the similar treatment. Hence the following order.

ORDER

- (a) In the event of her arrest, the Applicant – Nagma Dar in connection with C.R.No.83 of 2022 registered with Santacruz Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any

person acquainted with facts of case so as to dissuade her from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

- (c) The Applicant shall report to the Police Station as and when directed by the Investigating Officer.

(SMT. BHARATI DANGRE, J.)