

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 848 OF 2023

Akhilesh Bansraj Yadav @ Sanju

...Applicant

vs.

The State of Maharashtra

...Respondent

Ms. Kusum Pandey - Advocate for the Applicant

Mr. H. J. Dedhia - APP for the Respondent-State

PSI/Vaibhav Pawar – Nalasopara Police Station

CORAM : S. M. MODAK, J.

DATE : 30th MARCH, 2023

P. C. :-

1. Today the matter is fixed for hearing learned APP on the point of the compliance of the directions given in the case of **Arnesh Kumar V/s. State of Bihar and Another**¹, learned APP made following submissions:-

a) The premises licensed by the Applicant in favour of co-accused is sold as per agreement dated 03/04/2015 to one Santosh Lallan Singh. Copy of that agreement is tendered on record and marked as 'Annexure-X'. The stamp paper is issued by the District Treasury Office Vasai on 23/03/2015.

b) The address mentioned in the title clause is at Vasai. The said premises is also sold as per agreement dated

¹ AIR 2014 S.C. 2756

18/04/2017 by the Applicant and his wife to one Savitri Yadav. It is registered with the Sub-Registrar on 18/04/2017. Copy of that agreement is tendered on record and marked as 'Annexure-X-1'

2. It is true that on the last date, this Court has made it clear that this Court will not allow any documents to fill up the lacuane in the prosecution case. Accordingly, one statement of witness is recorded yesterday. I have not considered it. A submission is made why attempt has not been made to serve on these address and what is document to show that attempt is made to serve on these address. As these documents tendered today has been executed earlier to the order dated 28/03/2023, I have considered it.

3. It is true that in the present F.I.R., there is a description of the present Applicant and there is a remark that the address is not known.

4. In fact the Applicant has sold the premises earlier which is described in the title clause of the application. He ought not to have given that address, his conduct is not bonafide. This court feels that the investigating agency can not be faulted. If they are not knowing the address and the premises are sold from which address notice can be served. So grievance about the contention relating to

the non compliance of the *Arnesh Kumar (supra)* judgment is turned out.

5. Today learned Advocate for the Applicant has tried to argue on merits of the matter even though on last date I have have observed that there is no merit. She submitted that her client has not received any amount from the customers. Learned APP pointed out to me that there are bank statements showing transfer of the various amounts from the Proprietary firm in the name of the Applicant. Yes there are entries. In fact when I have held that he is not entitled for anticipatory bail, the submission is made today on behalf of the Applicant could have turned down. However it should not happen that the Applicant should be unheard, I have heard it and decided it.

6. In fact this Court is compelled to observe that every advocate whoever he or she may be while representing the client no doubt has to perform certain professional obligations, but it has also got certain limits and it should not be stretched to such an extent that learned advocate should fall in the footsteps of the litigant.

7. With these observations, application is disposed of.

[S. M. MODAK, J.]