

Nikita

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

**ANTICIPATORY BAIL APPLICATION NO.1291 OF 2023
WITH
ANTICIPATORY BAIL APPLICATION NO.3124 OF 2021**

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Vishnu Pandurang Dalvi and Anr. ... Applicants

V/s.

The State of Maharashtra ... Respondent

Mr. Akash Gupta i/b Hulyalkar and Associates for the Applicants.

Mr. Amit A. Palkar, APP for the State/Respondent.

Mr. Ashok Sharmale, PI, Nashik City.

Mr. PSI Y.V. Kendre, EOW, Nashik Rural.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 11, 2023

P.C.:

1. It has been observed that the advocate appearing in the present application is not serious nor contesting the application. Right from the first order till today, attempt is made either to prolong the matter or statements are made which would prompt this Court to adjourn the matter.

2. On 7th July 2023, none was present for the applicant. It was made clear that there is no interim relief and it shall be open for the Investigating Officer to take action in accordance with law. Again On 4th August 2023, statement was made to tag the matter along with ABA No.3124 of 2021, that the matter is kept today

first on board. A request is made on behalf of the applicant that a purchaser is ready to purchase the property and therefore, adjournment be granted.

3. Considering the conduct of the applicant, this is not a fit case where the adjournment should be granted. On overall consideration of the aforesaid facts, no case for grant of adjournment is made out. The learned advocate for the applicant is not serious in contesting the applicant.

4. The anticipatory bail application is dismissed for non prosecution. No costs.

ANTICIPATORY BAIL APPLICATION NO.3124 OF 2021

5. On 3rd August 2023, this Court pass following order:

“1. Stand over to 4th August 2023, second on board

2. It is made clear that on the next date request for keeping back the matter or adjournment will not be entertained on any ground.

3. Ad-interim relief granted earlier to continue till 4th August 2023.”

6. On 4th August 2023, this Court pass following order

“ 1. To be heard along with Anticipatory Bail Application No.3124 of 2021.”

7. On 4th August 2023, on specific request was made by the advocate appearing for the applicant that the applicant bonafidely intends to pay the amount within one week, if he is granted permission to mortgage sale or lease the property. It was made clear on that date to the advocate appearing for the applicant, that if

within one week, the amount is not repayed, this Court shall dismiss the matter.

8. On his request, this Court permitted the applicant to sale mortgage or leas the property. The vague statement is made that the applicant has one purchaser willing to purchase attached property. Besides the said statement no details or concrete proposal has been placed before this Court.

9. On consideration of the submissions made on the last occasion and overall conduct of the applicant, it appears that the conduct of the applicant is dishonest. That the property is attached in other crimes. This fact was not pointed out to this Court on 4th August 2023. Attachment of property in other crimes was a material fact which was deliberately suppressed by the applicant. The power under Section 438 of Code of Criminal Procedure, 1973 is a discretionary power. Such dishonest applicant is not entitled to any relief under Section 438 of the Criminal procedure Code, 1973.

10. Permission granted in paragraph No.2, by order dated 4th August 2023, is revoked. The position as regards the status of property as was in existence on 3rd August 2023, shall remain inforce. It shall be open for the Investigating Officer to take action against the applicant in accordance with law.

11. The anticipatory bail applications stands dismissed.

(AMIT BORKAR, J.)