

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

ANTICIPATORY BAIL APPLICATION NO. 2109 OF 2023

Sunita Pandurang Shinde

..Applicant.

v/s.

The State of Maharashtra

..Respondents

Mr. M.J.Bhatt for the Applicant.

Mr. Rushikesh K. Gaikwad i/b. Bhakti Godhamgaonkar for the Respondent No.2.

Mr. S.H.Yadav, APP for the State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 30th OCTOBER, 2023.**

P.C.

1. This is the second application under Section 438 of Cr.P.C. for pre-arrest bail, apprehending her arrest in Crime No. 101 of 2020 registered with Wanwadi Police Station for the offences punishable under Section 406, 420, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code.

2. By Order dated 24.08.2021 this Court (Coram : Bharati Dangre, J.) had granted pre-arrest bail to the applicant and the co-accused in view of the undertaking filed before the Court. Subsequently, the applicant, the co-accused, and the first informant entered into the consent terms dated 01.10.2021. The first informant i.e. the respondent no.2 subsequently filed an application for cancellation of bail on the ground that the applicant and the co-accused had not complied with the

undertaking furnished before the Court, as well as the consent terms.

3. This Court canceled the bail not only for non-compliance of the consent terms, but also in view of the conduct of the applicant and the co-accused. This Court had recorded that the notices issued to the applicants had returned unserved despite specific directions to the Investigating Officer to ensure service of notice and to secure their presence before the Court. Non-bailable warrants were issued against the applicant and the co-accused. Presence of the applicant and the co-accused could not be secured despite non-bailable warrants were issued against them. Hence, this Court (Coram : Prithviraj K. Chavan, J.) had issued notice to the DCP, Zone V, Pune, as to why legal action should not be initiated for non-compliance of the said order. It was only after the said order, that the presence of the co-accused could be secured and he was arrested on 28.02.2022 and produced before the Magistrate.

4. The Deputy Commissioner Mrs. Namrata Ganesh Patil had also filed her affidavit stating that the applicant and the co-accused were not residing at the address mentioned in the bail bonds. It was stated that the flat No.137, A Wing, Anupama Society, Thane (West) was already sold to Mehul Kishor Joshi in the year 2015. It was also stated that the applicant and the co-accused could not be traced, and that their location was traced after tracking their mobile phones. It was stated that the applicant and the co-accused would switch off their phones and keep changing their residence, and hence they could not be arrested.

5. The applicant and the co-accused furnished false address in the bail bonds. Further they were not traceable. In fact, they evaded services and avoided appearing before the Court. Their presence could be secured by the Investigating Agency only after tracking their mobile phones. The bail was cancelled in view of the aforestated circumstances and not merely for the breach of an undertaking or the consent terms. In such circumstances, no case is made out to entertain the second application for pre-arrest bail. Hence the application is dismissed.

PRASANNA
PRADEEP
SALGAONKAR

(ANUJA PRABHUDESSAI, J.)

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