

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2477 OF 2021

Mandakini Eknath Khadse .. Applicant

Versus

Union of India & Anr. .. Respondents

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Mr.Raja Thakare, Senior Counsel with Mr.Mohan Tekavde, Ms.Swati Tekavde, Ms.Sanjana Shivkar, Ms.Kajol Mhatre and Mrs.Mrudula Kadam for the Applicant.

Mr.Anil Singh, ASG with Mr.Aditya Thakkar, Mr.Shreeram Shirsat, Ms.Smita Thakur, Mr.Amandeep Singh Sra, Ms.Nishi Singhvi, Mr.Shekhar Mane, Mr.Vandit Joshi and Mr.Pranav Thakur for the Respondent No.1 /UOI.

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CORAM: BHARATI DANGRE, J.
DATED : 18th JANUARY, 2023

P.C:-

1. On hearing the learned senior counsel Mr.Raja Thakare for the applicant and the learned ASG Mr.Singh for the Union of India, who has invited my attention to the order dated 21/10/2021, passed in ***Anticipatory Bail Application No.2502 of 2021 (Shri Eknath Ganpatrao Khadse Vs. Union of India & Ors.)***, I see no reason why a similar order shall not be passed in the case of the present applicant.

2. By the present application, the applicant seeks anticipatory bail in the impugned ECIR, being

ECIR/MBZO-II/10/2019 in Special Case No.1108 of 2021 under Section 4 read with Section 3 read with Section 70 of the Prevention of Money Laundering Act, 2002.

3. In the wake of the decision of the Hon'ble Apex court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation & Anr.*** dated 28/07/2021¹ and dated 07/10/2021², the learned Senior Judge of this Court had made the following observations :-

“3. Relying on Constitution Bench Judgment of the Apex Court in the matter of *Sushila Aggarwal & Ors. Vs. State & Ors.* passed in SLP (Crl) No.007281-007282, particularly para 7.1 contentions are, there is no express bar on the maintainability of the pre-arrest bail application even if the Applicant is chargesheeted.

4. It is claimed that the Applicant is willing to appear before the Special Court with a prayer for grant of regular bail accompanied with the application for grant of interim bail. It is further claimed that till such period interim bail application is decided by the Special Court, Applicant be protected from arrest. So as to substantiate the said prayer, Mr.Gupte, learned Senior Counsel and Mr.Thakare, learned Senior Counsel appearing for Applicant have invited my attention to the order of rejection of prayer for grant of regular bail of Accused No.5, who is a public servant.”

4. In the wake of the above, the applicant was permitted to move the Special Court within a period of one week for grant of regular bail alongwith the application for grant of interim bail and the Special Court was directed to decide such application with a protection being conferred that the Special Court shall not take the applicant in custody. The pertinent observation in paragraph 9 to the effect that, the Special Court shall be sensitive to the authoritative pronouncement of the Apex Court in the judgment referred to also needs to be reiterated here. In the wake of the aforesaid, the following order is passed.

1 SLP(Crl) No.5191 of 2021

2 (2022) 10 SCC 51

: **ORDER** :

(a) Continuing the interim protection granted in favour of the applicant in the present application on 14/10/2021, the applicant is directed to appear before the Special Court by filing an application for grant of regular bail accompanied with an application for being released on interim bail, within a period of two weeks from today.

The interim protection shall continue to remain in operation till the application for interim bail is heard by the Special Court.

(b) It is expected that the Special Court shall take into consideration the pronouncement of the Apex Court in the case of ***Satender Kumar Antil (supra)*** and pass appropriate orders.

5. The application stands disposed off in the aforestated terms.

6. Parties to act on an authenticated copy of this order.

(**SMT. BHARATI DANGRE, J.**)