

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2576 OF 2023

Dilip Jamnadas Giyanani ...Applicant
vs.
The State of Maharashtra and Ors. ...Respondents

Mr. Charanjeet Singh, for the Applicant
Mrs. Geeta Mulekar, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.
DATE : SEPTEMBER 11, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. The learned counsel for the applicant submits that the applicant has directly approached this Court for pre-arrest bail invoking the concurrent jurisdiction under section 438 of Code of Criminal Procedure, 1973.
3. The learned counsel submits that the applicant is permanent resident of Mumbai and the applicant is suffering from various ailments, therefore, it is not possible for him to travel to Pune and file application before the Court of Session.
4. Undoubtedly, the jurisdiction to grant pre-arrest bail under section 438 of the Code is concurrent. In a given case if an exceptional situation is made out, the High Court may entertain an

application for pre-arrest bail without the applicant having initially moved the Court of Session. However, the High Court cannot encourage a practice of the parties directly approaching the High Court as that would undermine the authority of the Court of Session which are equally competent and manned by judicial officers having experience and competence.

5. In the instant case, the reasons ascribed for approaching this Court directly do not travel beyond the aspect of convenience of the applicant. Relative convenience or inconvenience of a party can not, ordinarily, constitute an exceptional ground. I am, therefore, not inclined to entertain the application for pre-arrest bail.

6. Application disposed with liberty to the applicant to approach the jurisdictional Court of Session.

7. It is hereby made clear that this Court has not entered into the merits of the matter.

(N. J. JAMADAR, J.)