



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

ANTICIPATORY BAIL APPLICATION NO. 2775 OF 2023

Darshan Lalit Gandhi ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Amin Solkar, a/w S. Nagvadaria, for the Applicant.
Smt. Ashwini Takalkar, APP for the State/Respondent.
API Sanjay Patil, Unit-2, USG-2, EOW, Mumbai.

CORAM: N. J. JAMADAR, J.
DATED: 5th OCTOBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. An application for pre-arrest bail preferred by the applicant was rejected by this Court by an order dated 25th November, 2021.
3. The learned Counsel for the applicant submits that the Investigating Officer thereafter never made an effort to arrest the applicant. On 4th December, 2021, EOW issued a notice to the applicant intimating him that charge-sheet would be lodged against the applicant in the 47th Court of Metropolitan Magistrate, Mumbai, and the applicant shall appear before the said Court, on 8th December, 2021. It is submitted that

the notice implies that the Investigating Officer does not intend to arrest the applicant and the presence of the applicant was insisted only for filing of the charge-sheet before the Court.

4. The learned Counsel for the applicant urged that the learned Magistrate has, however, opined that the Investigating Officer ought to have arrested the applicant and, thereafter, filed the charge-sheet. The said course, according to the learned Counsel for the applicant, is not warranted.

5. The learned Counsel for the applicant invites the attention of the Court to the judgment of the Supreme Court in the cases of *Siddharth vs. State of Uttar Pradesh and another*¹ and *Aman Preet Singh vs. C.B.I. through Director*², wherein the Supreme Court has enunciated that the arrest of the accused only for the purpose of filing of the charge-sheet is not required. The provisions contained in Section 170 of the Code of Criminal Procedure cannot be misread to insist arrest of the accused as a prerequisite to take charge-sheet on the record of the Court.

¹2021 SCC Online SC 615.

²Cri. Appeal No.929/2021, dtd.2/9/2021.

6. At this stage, it would be improper to pass an order on the basis of verbal opinion allegedly expressed by the learned Magistrate. It would be suffice to observe that when the applicant appears before the Court, the learned Magistrate shall pass an appropriate order in conformity with the judgments of the Supreme Court in the cases of *Siddharth* (supra) and *Aman Preet Singh* (supra).

7. Application stands disposed.

[N. J. JAMADAR, J.]