2023:BHC-NAG:17351

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPLN) NO.143/2022
Sai Point Automobiles Pvt.Ltd., thr.its Authorised Signatory
Shri Hemant s/o Sahebrao Kadu
..vs..
State of Mah., thr.PSO Ganeshpeth PS, Nagpur and anr

AND
CRIMINAL APPLICATION (APPLN) NO.7/2023
The State of Mah., thr.PSO PS Ganeshpeth, Nagpur
..vs..
Anand s/o Vijaysingh Kalchuri

AND
CRIMINAL APPLICATION (APPLN) NO.75/2023
Sai Point Automobiles Pvt.Ltd., thr.its Authorised Signatory
Shri Hemant s/o Sahebrao Kadu
..vs..
The State of Mah., thr.PSO Ganeshpeth PS, Nagpur and anr

Office Notes, Office Memoranda of Coram, appearances, Court orders or directions and Registrar's orders	Court's or Judge's Order

CRIMINAL APPLICATION (APPLN) NO.143/2022
Shri Sahil Dewani, Counsel & Ms.Disha Fulwani & Ms.Anushree Bandge, Advocates for the Applicant.
Mrs.Smita Deshpande, Counsel and Shri S.A.Walde, Advocate for NA No.2.
Shri V.A.Thakare, Additional Public Prosecutor for NA No.1/State.

CRIMINAL APPLICATION (APPLN) NO.7/2023
Shri V.A.Thakare, Additional Public Prosecutor for the Applicant/ State.
Mrs.Smita Deshpande, Counsel and Shri S.A.Walde, Advocate for the NA.

CRIMINAL APPLICATION (APPLN) NO.75/2023
Shri Sahil Dewani, Counsel & Ms.Disha Fulwani & Ms.Anushree Bandge, Advocates for the Applicant.
Mrs.Smita Deshpande, Counsel and Shri S.A.Walde, Advocate for NA No.2.
Shri V.A.Thakare, Additional Public Prosecutor for NA No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 04/12/2023
PRONOUNCED ON : 18/12/2023

COMMON ORDER

1. All these applications are preferred under Section 439(2) of the Code of Criminal Procedure for cancellation of anticipatory bail granted to accused persons, (Anand s/o Vijaysingh Kalchuri and Smt.Dolly w/o Sanjay Tiwari), who are non-applicants in these applications.

2. Criminal Application Nos.143/2022 and 75/2023 are preferred by Sai Point Automobiles Private Limited, through Shri Hemant s/o Sahebrao Kadu (complainant/applicant). Whereas, Criminal Application No.7/2023 is preferred by the State.

3. The offence is registered vide Crime No.383/2022 with Ganeshpeth Police Station, Nagpur for offences punishable under Sections 408; 409; 420; 465; 468; 471, and 477(A) of the Indian Penal Code.

4. As per the report lodged by the complainant/applicant against accused persons Anand Kalchuri

and Dolly Tiwari, applicant Sai Point Automobiles is a private limited company dealing in sell and services of two wheeler vehicles of Honda Company. The complainant/applicant is serving as Chief Executive Officer of the said company. Accused Anand Kalchuri was appointed as “Accounts Manager” in the said company 1.12.2015 and accused Dolly Tiwari was appointed as “Cashier”. As per duties entrusted to them, accused Dolly used to accept cash of booking of vehicles from customers and issue receipts and was making entries in respect of the said transaction in computer system. The entries were being made in computer in respect of cash received from other showrooms. The said cash used to be handed over to accused Anand Kalchuri who was working as Accounts Manager. After receipt of the said cash, he has to verify the same and keep the cash in treasury provided for the said purpose. In July 2022, the complainant/applicant, who is serving as the Chief Executive Officer of the said company, got knowledge about huge amount of commission/bribe is being taken by accused Anand Kalchuri. On receipt of the said information, an enquiry was conducted and accused Anand Kalchuri had admitted about receipt of the commission and tendered his apology on 16.7.2022. From the next day, accused Anand Kalchuri stopped attending the office and, therefore, the the complainant/applicant lodged a written complaint against him and his wife. However, the police have not taken cognizance and asked the company to audit the account. Accordingly, forensic audit was conducted through "Saurabh K.Jain & Company, which is a charted accountant company of the Nagpur City. After conducting the audit, the Chartered Accountant Company submitted a report stating that there was a cash embezzlement to the extent of Rs.46,39,153/-. It was also noticed that many of entries pertaining to the cash receipts were deleted and the amount was misappropriated by accused Anand Kalchuri. It was noticed that in 40 matters, cash receipts were edited by obtaining the same from the cashier and the amount was misappropriated and, therefore, the First Information Report was lodged against accused persons Anand Kalchuri and Dolly Tiwari. After registration of the First Information Report, accused Anand Kalchuri approached the Sessions Court for grant of anticipatory bail by filing an application, which was registered as Criminal Bail Application No.2863/2022, which was allowed on 30.11.2022 and he was released on anticipatory bail. Also, another accused Dolly Tiwari approached the Sessions Court for grant of anticipatory bail by filing an application, which was registered as Criminal Bail Application No.704/2023, which was allowed on 15.4.2023 and the accused was released on anticipatory bail.

5. Learned counsel Shri Sahil Dewani for the complainant/applicant, submitted that there is a *prima facie* material against the accused persons and this fact was brought to the notice of learned Sessions Judge by showing *modus operandi* utilized by them which resulted into siphoning of the amount, which was not considered. He submitted that huge amount Rs.46,39,153/- for one financial year was misappropriated. The trial court had not considered that physical custody of the accused persons is required for investigation purpose to ascertain the manner in which the fraud was committed. Accused person Anand Kalchuri has not only misappropriated the amount but also manipulated various entries relating to various business transactions of the complainant/applicant's company by editing and deleting some entries of the receipt of cash and sharing different excel sheets of account received by them from the accounts department and also changed serial numbers and transactions. The trial court ought to have considered that custodial interrogation is required and opportunity is to be granted to the investigation agency to investigate the matter. The orders granting anticipatory bail to the accused persons are absolutely perverse and liable to be set aside. The trial court erroneously held that physical custody of the accused persons is not required merely stating that perusal

of the record and on going through circumstances. This practice is deprecated by the Honourable Apex Court.

He submitted that insofar as another accused Dolly Tiwari is concerned, she was serving as "Cashier" and used to hand over the cash to accused Anand Kalchuri. By joining hands with each other, they have misappropriated the cash and committed the offence and, therefore, the bail granted to them deserves to be cancelled.

6. In support of his contentions, learned counsel Shri Sahil Dewani for the complainant/applicant placed reliance on following decisions:

1. Mahipal vs. Rajesh Kumar alias Polia and anr (2020)2 SCC 118;

2. Centrum Financial Services Limited vs. State of NCT of Delhi and anr 2022 SCC OnLine SC 100;

3. Manoj Kumar Khokar vs. State of Rajasthan and anr (2022)3 SCC 501;

4. Prashant Singh Rajput vs. State of Madhya Pradesh and anr 2021 SCC OnLine SC 919, and

5. Rahul Ganeshrao Mohod vs. State of Maharashtra AIR OnLine 2022 Bom 3427.

7. *Per contra*, learned counsel Mrs.Smita Deshpande

for accused persons submitted that the trial court has rightly considered that the allegation is on the basis of auditor's report. It is further observed that statutory auditor has raised the issue in the Financial Year 2019-2020. However, no cognizance is taken by the company and the report is lodged on 18.11.2022 as such their appears undue and explained delay in registration of the First Information Report. More so, the entire case of the prosecution is based on documentary evidence. The reply filed by the Investigating Officer reflects that substantial documents are already recovered during the course of the investigation and, therefore, custody of the accused persons is not required as nothing is to be recovered from them. She further submitted that accused Anand Kalchuri is implicated the crime merely on the suspicion that he has wrongfully gained the amount and purchased immovable property. In fact, wife of accused Anand Kalchuri is a working lady. Accused Anand Kalchuri has obtained loan and, thereafter, purchased the said property. Moreover, the Investigating Officer has seized the entire record. The bank accounts of accused Anand Kalchuri are already seized. As such, the applications filed are devoid of merits and for cancellation of bail, supervening and overwhelming circumstances are required which are not pointed out and, therefore, the application deserve to be rejected.

8. Learned Additional Prosecutor Shri V.A.Thakare for the State, submitted that the State has also applied for cancellation of the bail as the trial court has not considered the material collected during the investigation and wrongly passed orders granting anticipatory bail. The offence committed by the accused persons is in the nature of economic offence. The investigation papers show that accused Anand Kalchuri has removed the amount from the treasury of the company and deposited the same in his account. He has not only obtained the amount but also deleted some entries and committed the offence of forgery. The forensic audit report shows that there is embezzlement of the amount of more than Rs.46,39,153/-. The physical custody of the accused persons is required for the investigation purpose to ascertain mode in which the said entries are deleted and the amount was siphoned and prays for cancellation of bail.

9. Before adverting to the material collected during the investigation, it is necessary to see principles laid down by the Honourable Apex Court while considering applications under Section 439(2) of the Code of Criminal Procedure.

10. The Honourable Apex Court in the case of **Mahipal**

vs. Rajesh Kumar alias Polia and anr *supra* held that, "merely recording "having perused the record" and "on the facts and circumstances of the case" does not subserve the purpose of a reasoned judicial order. Questions of the grant of bail concern both liberty of individuals undergoing criminal prosecution as well as the interests of the criminal justice system in ensuring that those who commit crimes are not afforded the opportunity to obstruct justice. Judges are duty-bound to explain the basis on which they have arrived at a conclusion. Where an order refusing or granting bail does not furnish the reasons that inform the decisions, there is a presumption of the non-application of mind which may require the intervention of the Supreme Court."

The Honourable Apex Court in paragraph No.14 observed that "the provision for an accused to be released on bail touches upon the liberty of an individual. It is for this reason that this court does not ordinarily interfere with an order of the High Court granting bail. However, where discretion of the High Court to grant bail has been exercised without the due application of mind or in contravention of the directions of this Court, such an order granting bail is liable to be set aside. The court is required to factor, amongst other things, a prima facie view that the accused had committed offence, the nature and gravity of the offence and the likelihood of the accused obstructing the proceedings of the trial in any manner or evading the course of justice. The provision for being released on bail draws an appropriate balance between public interest in the administration of justice and the protection of individual liberty pending adjudication of the case. However, the grant of bail is to be secured within the bounds of law and in compliance with the conditions laid down by this court. It is for this reason that a court must balance numerous factors that guide the exercise of the discretionary power to grant bail on a case-by-case basis. Inherent in this determination is whether, on an analysis of the record, it appears that there is a prima facie or reasonable cause to believe that the accused had committed the crime. It is not relevant at this stage for the court to examine in detail the evidence on record to come to a conclusive finding."

The Honourable Apex Court in paragraph No.17 observed that, "where a court considering an application for bail fails to consider relevant factors, an appellate court may justifiably set aside the order granting bail. An appellate court is thus required to consider whether the order grating bail suffers from a non-application of mind or is not borne out from a prima facie view of the evidence on record. It is thus necessary for this court to assess whether, on the basis of the evidentiary record, there existed a prima facie or a reasonable ground to believe that the accused had committed the crime, also taking into account the seriousness of the crime and the severity of the punishment.

11. It is well settled principle of law that while dealing with applications for grant of bail, it is the duty of the court to take into consideration certain factors like nature of accusations and severity of punishment and reasonable apprehension of tampering with witnesses for apprehension of threat to the complainant and prima facie satisfaction of the court in support of the charge. Thus, the jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner.

12. The Honourable Apex Court in the case of **Bhoopendra Singh vs. State of Rajasthan 2021 17 SCC 2020** made observations with respect to exercise of the appellate power to determine whether bail has been granted for valid reasons stand on a distinct footing from an application for cancellation of bail and observed that, "the considerations that

guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified.

13. The Honourable Apex Court in the cases of **Neeru Yadav vs. State of Uttar Pradesh (2014)16 SCC 508** and **Mitthan Yadav vs. State of Uttar Pradesh 2014 SCC OnLine 16031** laid down the precedent on the principles which guide regarding the grant of bail. In **Neeru Yadav** *supra* it is held as under:

> "**12**. It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of, or bail is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the court does not dwell upon the violation

of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the court."

It is further held as under:

17. Where a court considering an application for bail fails to consider relevant factors, an appellate court may justifiably set aside the order granting bail. An appellate court is thus required to consider whether the order granting bail suffers from a non application of mind or is not borne out from a prima facie view of the evidence on record. It is thus necessary for this Court to assess whether, on the basis of the evidentiary record, there existed a prima facie or reasonable ground to believe that the accused had committed the crime, also taking into account the seriousness of the crime and the severity of the punishment..."

14. Applying the law laid down by the Honourable Apex Court in the decisions *supra* to the facts of the present case, the allegations against accused Anand Kalchuri are that when he was serving as "Accounts Manager", he misappropriated the huge amount and also siphoned the said amount. It was also noticed that many of the entries pertaining to the cash receipts were deleted and the amount thereof was embezzled by accused Anand Kalchuri. Further allegations are that he edited the cash receipts received from the cashier and misappropriated the amount.

15. To substantiate the above allegations, learned Additional Public Prosecutor Shri V.A.Thakare for the State placed reliance on the Forensic Audit Report conducted by the company through "Crypto Forensic Technology, Nagpur. The report shows that the report aims to provide examination procedures, findings, and recommendations. The report includes digital forensic standards, principles, methods, and legal issues. As per the report, during the Financial Year 2019-2021, total documents tampered were 292 and amount was Rs.40,36,626.17. During the year 2020-21, amount of embezzlement is approximately Rs.40,37,626/-.

16. The investigating officer has also recorded relevant statements of witnesses including statements of Pankaj Bhadre and Shewta Suraj Tamne. From the statement of Pankaj Bhadre, it reveals that accused Anand Kalchuri used to open the treasury of the company and used to remove amount Rs.20,000/- and was directing him to deposit in the account of his wife Vaishali in the State Bank of India.

17. The statement of Abhijit Baismare shows that he is running R.K.Fabircation Construction Business. The Sai Point Automobiles Private Limited contacted him for one shed godown

and, therefore, he approached concerned persons at showroom and inspected the spot where shed is to be constructed. He has given estimate of Rs.3,45,000/-. He demanded 50% of the amount from accused Anand Kalchuri. Accused Anand Kalchuri handed over him Rs.4.00 lacs. As the amount was insufficient, he again approached accused Anand Kalchuri and he was informed that amount Rs.4.00 lacs has been deposited in his bank account. After completion of the work, he again contacted for remaining amount on which accused Anand Kalchuri demanded commission from him of Rs.1.00 lac.

18. The statement of Pramod Sonkusare, who was working as "Cashier" in absence of accused Dolly Tiwari, it reveals that as a "Cashier" he has to make entries and submit a report in excel sheet and used to deposit the cash with accused Anand Kalchuri. Accused Anand Kalchuri prepared the false excel report and misappropriated the amount.

19. Thus, from the investigation papers it reveals that accused Anand Kalchuri, who was working as "Accounts Manager" misappropriated the huge amount which was deposited with him. There is direct evidence of witnesses which shows that the deposited cash payment towards the down

payment with the company against purchase of vehicle was not refunded to the customers and false entries have been made to grab the amount. Before Forensic Audit Report, "Saurabh K.Jain & Company, which is a charted accountant company of the Nagpur City, conducted a Special Audit and submitted Audit Report dated 1.11.2022 wherein it is observed that during investigation many cash receipts were concealed by the Chief Accountant. The transactions of cash when received from the customers or the party were reported into the system (autonet). However, while reporting to the management (in excel sheet), some cash receipts were either deleted or edited by the Chief Accountant along with the then Cashier showing embezzlement of cash. This practice of cash embezzlement done was amounting to Rs.46,39,153/- (tentative). It is further observed that the cash receipts were entered into system (autonet). However, due to embezzlement, actual physical cash does not match with the autonet. The same point was raised by the Auditor in their Audit Report for the Financial Year 2019-2020. The said Audit Report further reveals that as per the general practice of organization, daily cash receipts' entries from customers for vehicles booking or insurance renewal are passed into the system (autonet) and at the day end the cash book is exported into excel from autonet which was signed by the Chief

Accountant to be represented for the management for the reference. Thus, the Chief Accountant, after export of the cash book from the autonet, deleted few cash receipts. The deleted cash receipts' amounts are embezzlement by him. The edited cash book (excel sheet) is then matched with prepared by the Cashier. It is then signed by the Chief Accountant and kept for record. Thus, the manual cash book and excel sheet kept for management record have incorrect amount collected on that particular day. However, for the same date, if the cash book is exported again from the autonet, it contains missing cash receipts which was not reported earlier in the excel report generated for management and signed copy kept in record. The Chartered Accountant has explained this fact by elaborating the above point by giving example as below:

> "Thus, the chief accountant after export of cash book from Autonet deleted few cash receipts. The deleted cash receipts amount is embezzled by him. the edited cash book (excel version) is then match with the manual cash book prepared by the cashier. It is then signed by chief accountant and kept for the record. Thus, the manual cash book and excel edited cash book kept for management record has incorrect amount collected on that particular day. However, for the same date if the cash book is exported again from the Autonet will contain missing cash receipts which was not reported earlier in the excel report generated for management and signed copy kept in record."

Receipt RC-11-14

Particulars	Note	Amount (in Rs.)	Remarks
Total Cash receipts as per Autonet on 06/01/2020	(A)	7,44,022	(Highlighted and marked SA-111 page 4)
Total cash receipts as per excel cash book and manual cash book	(B)	6,73,522	(Highlighted and marked SA-111 page 5, 9)
Difference	(A-B)	70,500	Receipts RC-11014

20. Thus, it can be seen from the cash receipts that Rs.70,500/- is intentionally deleted from excel sheet and manual cash book. The RC 11014 duplicate copy is available in software and the same is also attached with the report.

21. Thus, the Audit Report explains the manner in which the manual cash book and entries in the autonet and excel sheets are manipulated which show that the manual cash book and excel edited cash book kept for management record has incorrect amount collected on the particular day. It is specifically mentioned in the Audit Report that it is the Chief Accountant who has deleted few cash receipts. Admittedly, accused Anand Kalchuri was serving as Chief Accountant at the

relevant time.

22. Perusal of orders impugned passed by learned Judge below shows that the learned Judge below has given importance to the delayed First Information Report. While releasing accused Anand Kalchuri on anticipatory bail, only reason assigned by the court is that there is undue and explained delay in registration of the First Information Report. The trial court further held that the entire case of the prosecution is based on the documentary evidence and physical custody of the applicants is not required as noting is to be recovered from the applicants. Learned trial court ignored fact that the accused persons are involved in economic offence.

23. The Honourable Apex Court in the case of Y.S.Jagan **Mohan Reddy vs. CBI (2013)7 SCC 439** laid down following parameters while dealing with the offence involving the economic offence of huge magnitude:

> "i) economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious

> threat to the financial health of the country, and
>
> ii) while granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public/State and other similar considerations."

24. The Honourable Apex Court, in the case of **State of Gujarat vs. Mohan Lal Jitamalji Porwal, reported in (1987)2 SCC 364** held as follows:

> "5. ….The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest….."

25. Thus, the trial court had not considered the circumstances in which the alleged incident has taken place. The trial court has also not considered factors including the nature of the offence and the involvement of the accused persons.

26. Insofar as the delay is concerned, written complaint filed by the Chief Executive Officer before the police explains a fact why the earlier complaint was not lodged. It is pertinent to note that after receiving the Audit Report, the company came to know about the exact misappropriation. It is specifically mentioned in the written complaint lodged by the Chief Executive Officer that the conduct of accused Anand Kalchuri was suspicious and, thereafter, the company decided to conduct the audit and after the audit it reveals that misappropriation was conducted by accused Anand Kalchuri and, thereafter, the First Information Report was lodged.

27. Thus, the delay is appropriately explained by the company.

28. The order passed by the trial court is without considering the fact that the amounts involved were deposited by the customers towards the down payment against the

purchase of the vehicles. The order passed by the trial court is non-application of mind without considering *prima face* evidence against accused Anand Kalchuri. The jurisdiction exercised by the trial court is in the arbitrary manner as far as the application of accused Anand Kalchuri is concerned.

29. Insofar as accused Dolly Tiwari is concerned, admittedly, there is no sufficient material against her and, therefore, no case is made out to cancel the bail granted to her.

30. Admittedly, liberty of an individual is an invaluable right, at the same time it cannot be lose sight of that serious nature of accusations against the accused are made and the material on record is nowhere sufficient to hold that accusations are false, frivolous or vexatious in nature but it is supported by adequate material so as to enable a court to arrive at a *prima facie* conclusion. While considering applications for bail, the decision must be supported by reasons and must be arrived at after having regard to the vital parts of the case brought on record. It is apparent that due consideration is not given to the facts suggestive of nature of crime.

31. In the light of the above, Criminal Application No.143/2022 filed by the complainant/applicant and Criminal Application No.7/2023 filed by the State to cancel the anticipatory bail granted to accused Anand Kalchuri deserve to be allowed.

32. As it is observed earlier that there is no merit in the application filed by the complainant/applicant to cancel the anticipatory bail granted to Dolly Tiwari, Criminal Application No.75/2023 deserves to be rejected as there is no *prima facie* material to cancel her bail.

33. In this view of the matter, I pass following order:

ORDER

(1) Criminal Application No.143/2022 and Criminal Application No.7/2023 are **allowed**.

(2) The order dated 30.11.2022 passed by learned Additional Sessions Judge, Nagpur in Criminal Bail Application

No.2863/2022 is hereby quashed and set aside and the anticipatory bail granted to accused Anand Kalchuri is cancelled.

(3) Criminal Application No.75/2023 is **rejected**.

(**URMILA JOSHI-PHALKE, J.**)

1. **At this stage,** learned counsel Mrs.Smita Deshpande for accused Anand Kalchuri, submitted that she has to challenge the present order before the Honourable Apex Court and the Honourable Apex Court is having vacation and, therefore, till she approaches the Honourable Apex Court, non-applicant Anand Kalchuri be protected by extending protection of anticipatory bail for a period of four weeks.

2. The said prayer is strongly opposed by learned counsel Shri Sahil Dewani for the applicant and learned Additional Public Prosecutor Shri V.A.Thakare for the State.

3. Learned counsel Shri Sahil Dewani for the applicant, placed reliance on the decision of the Honourable Apex Court in the case of **State of Uttar Pradesh vs. Mohd.Afzal and ors, reported in 2023 LiveLaw (SC) 566]** wherein it has been held that where application for anticipatory bail is rejected and granting *interim* protection is not within the purview of the said section, it is self-contradictory orders that have been passed by the High Court. It is further observed that on one hand, application for anticipatory bail is rejected and on the other hand, *interim* protection is granted for a period of two months and allowed the appeal.

The similar ratio is applicable here also.

4. This Court has already quashed and set aside the order of granting the anticipatory bail. Once, anticipatory bail granted to applicant is cancelled, granting *interim* protection to non-applicant would be self-contradictory orders and, therefore, the prayer made by learned counsel Mrs.Smita Deshpande for accused Anand Kalchuri for grant of *interim* protection cannot be granted and therfore, the said prayer is

rejected.

5. Authenticate copy of this order be furnished to learned counsel appearing for respective parties to be acted upon.

(**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede !!
**Divya*