

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 406 OF 2021

WITH

INTERIM APPLICATION NO. 954 OF 2021

Surendrakumar Bramahadatta Agarwal } ..Applicant

V/s.

- 1. The Central Bureau of Investigation
(At the instance of Sr. Inspector CBI,
Special Crime Branch-II**

2. The State of Maharashtra, at the instance of Bund Garden Police Stn. Pune } ..Respondents

**WITH
INTERIM APPLICATION NO. 954 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO. 406 OF 2021**

Mr. Mushtaq Shabbir Momin } ..Intervenor

Surendrakumar Bramahadatta Agarwal } **..Applicant**

V/s.

- 1. The Central Bureau of Investigation
(At the instance of Sr. Inspector CBI,
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instance of Bund Garden Police Stn. Pune } **..Respondents**

Mr. M.S. Mohite, *Senior Advocate with Mr. Vinayak Patil, Mr. Chaitanya Pendse, Mr. Vishal Nevshe with Mr. Anant Charkhe and Mr. Ranjit Ade, for the Applicant.*

Mr. Kiran S. Shinde, *APP for State-Respondents.*

CORAM : SANDEEP V. MARNE, J.

Dated : 18 March 2024.

P.C. :

1) The Applicant seeks pre-arrest bail in connection with C.R. No. 414 of 2009 registered with Bund Garden Police Station for offences punishable under Section 307 read with Section 34 of the Indian Penal Code. It appears that after the investigations are taken out by the Central Bureau of Investigation, SC-II, New Delhi, the same has been renumbered as FIR No. RC-7(S)/2017/SCU.V/SC.II/CBI/New Delhi dated 23 May 2017.

2) The FIR arises out of the incident which allegedly took place on 11 October 2009, when two persons on motorcycle fired at the complainant. After completing the investigations, the first chargesheet was filed in the year 2010. Qua Applicant, the investigations are completed and chargesheet is filed in the year 2020. It appears that the charge has been framed on 20 December 2021 and the trial has commenced. Mr. Mohite, the learned Senior Advocate appearing for the Applicant would submit that by now as

many as 9 prosecution witnesses have been examined. He would further submit that the Applicant has presented himself on all dates before the Trial Court.

3) Interim protection was granted by this Court in favour of the Applicant on 12 February 2021. On 4 March 2024, when the application was listed before me on account of special assignment allotted to this Court for deciding the anticipatory bail applications pending for long time, none had appeared on behalf of the CBI. From previous orders, it appeared that a Special Public Prosecutor was appointed by the CBI, who had opposed the application. However, none was present on 4 March 2024 and accordingly hearing of the application was deferred and was adjourned for today. Today, Mr. Shinde, learned APP submits that he has no instructions in the application. The hearing of the application cannot be deferred any further considering the fact that application has been specially assigned to this Court for early disposal.

4) By now, period of 15 long years have elapsed from the date of the alleged incident. Investigations are already complete and chargesheet has been filed against the Applicant in the year 2020. The charge in the case has been framed on 20 December 2021 and it appears that the trial is at an advanced stage where prosecution witnesses are under examination. The current age of the Applicant is reportedly 76 years. Considering these aspects, in my view, the interim protection granted in favour of the Applicant deserves to be made absolute subject to the condition that the Applicant

presents himself before the Trial Court on each date of hearing. Hence, the following order :

(i) In the event of arrest of the Applicant in Crime No. 414 of 2009 registered with Bund Garden Police Station and subsequently transferred and renumbered as FIR No. RC-7(S)/2017/SCU.V/SC.II/CBI/New Delhi registered with CBI, SC-II, New Delhi, in Sessions Case No. 640 of 2020 alongwith Sessions Case No. 123 of 2021, he shall be released on anticipatory bail on executing PR bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like sum.

(ii) The Applicant shall furnish his permanent residential address and contact number to the Investigating Officer forthwith.

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(iv) The Applicant shall present himself before the Trial Court on each date of hearing, unless exempted.

5) The application is accordingly **allowed and disposed of**. With disposal of the anticipatory bail application, Interim Application taken out for intervention does not survive. The same also stands disposed of.

NEETA
SHAILESH
SAWANT

SANDEEP V. MARNE, J.

Digitally signed by
NEETA SHAILESH
SAWANT

Date: 2024.03.19
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