

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

**INTERIM APPLICATION NO.3124 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.737 OF 2023**

Abdul Rahim Abdul Karim Barudgar Applicant
Versus
The State of Maharashtra & Another Respondents

Mr. Amanjot Singh, Advocate a/w. Naziya Khan i/b. H.S.
Anand, for the Applicant.

Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

Mr. Sandeep D. Sherkhane, Advocate for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th FEBRUARY, 2024

P.C. :

1. This is an application for cancellation of anticipatory bail granted by this Court (Coram: Smt. Anuja Prabhudesai, J.) vide order dated 10.3.2023 passed in A.B.A. No.737/2023. Learned Judge has since retired and, therefore, the matter is placed before this Court.

2. The present Application for cancellation of anticipatory bail is preferred by the original first informant. Anticipatory bail was granted to the Respondent No.2 herein.

3. Heard Mr. Amanjot Singh, learned counsel for the Applicant, Ms. Mahalakshmi Ganapathy, learned APP for the Respondent-State and Mr. Sandeep Sherkhane, learned counsel for the Respondent No.2.

4. The subject matter is C.R. No.1242/2022 registered at Santacruz police station for the offence punishable under Sections 419, 420, 465, 467, 468, 471 read with 34 of IPC. Said order refers to the facts of the case in which the informant had agreed to purchase the concerned property for Rs.6,25,00,000/-. This transaction was brought about by one Sharad Teli. He had brought one Dhairyasheel Palekar to the office of the informant and had told the informant that said Palekar was owner of the property. An MOU was signed. The informant paid Rs.21 Lakhs to the co-accused Sharad Teli. As far as the present Respondent No.2 is concerned, he was a broker and he had received Rs.9 Lakhs in

cash. The learned Predecessor of the Court recorded the statement made by learned counsel for the Applicant in paragraph-6 of that order, which reads thus:

“6. Learned counsel for the Applicant, under instructions, states that the Applicant is ready and willing to deposit an amount of Rs.6,00,000/- before this Court. He states that Rs.2,00,000/- will be deposited within a period of two weeks and the balance Rs.4,00,000/- will be deposited within four weeks thereafter. Statement is accepted as an undertaking to the Court.”

5. Based on this statement alone, the relief of anticipatory bail was granted to the Applicant in that application i.e. the Respondent no.2 herein. Said order was passed on 10.3.2023.

6. Learned counsel for the Applicant – first informant states that the Respondent No.2 has not complied with said order for about a year and, therefore, the relief granted to him is liable to be set aside and the anticipatory bail granted to him is liable to be cancelled.

7. Learned APP supported the submissions of learned counsel for the Applicant.

8. Learned counsel for the Respondent No.2 states that the Respondent No.2 is not in a position to deposit the said amount. He candidly admitted that the Respondent No.2 has not complied with his own undertaking. He further states that the Respondent No.2 is willing to surrender before the Court and this Application can be allowed. His only request is that once he is arrested, he be permitted to file regular bail application and it be decided without being influenced by the orders passed by this Court in connection with his anticipatory bail application.

9. Considering these submissions, it is quite clear that even the Respondent No.2 has no objection for allowing this application as he has violated his own undertaking. The facts speak for themselves. Therefore, anticipatory bail granted to the Respondent No.2 is liable to be cancelled. Hence, the following order :

ORDER

- (i) The Application is allowed.
- (ii) The relief granted under Section 438 of Cr.PC. to the Respondent No.2 in connection with C.R. No.1242/2022 registered at Santacruz police station, Mumbai is cancelled.
- (iii) The Respondent No.2 is directed to surrender before the investigating agency.
- (iv) It is made clear that if the Respondent No.2 prefers a Regular Bail Application it shall be decided in accordance with law without being influenced by the present order.
- (v) The Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
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PRAKASHRAO
DESHMANE
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