

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.328 OF 2024

1. Sumedh More
2. Namrata Deo ... Applicants
Vs.
State of Maharashtra ... Respondent

Dr. Uday Warunjikar a/w. Ms. Sonali R. Chavan and Ms. Gargi U. Warunjikar for Applicants.

Mr. Babu V. Holambe-Patil APP for Respondent State.

Mr. Sandeep R. Karnik i/b. Mr. Abhishek Shrivastava for Informant.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 04, 2024

P.C. :

1. Heard Dr. Warunjikar, learned counsel appearing for the applicants, Mr. Holambe-Patil, learned APP appearing for the respondent-State and Mr. Karnik, learned counsel having instructions to appear on behalf of the first informant.

2. The applicants are seriously aggrieved by a condition imposed by the Sessions Court, while partly allowing an application for anticipatory bail filed on their behalf in connection with FIR No.1205 of 2023 dated 23.10.2023 registered with Hinjewadi Police Station, District - Pimpri Chinchwad, for offences under Sections 379, 403, 406, 418 and 420 of the Indian Penal Code, 1860 (IPC); Sections 43 and 66 of the Information Technology Act, 2000; as also Section 447 of the Companies Act, 2013.

3. The Sessions Court, by order dated 24.09.2024, in the operative portion has held as follows:-

“(i) The application is partly allowed.

(ii) The applicants / accused Mrs. Namrata Dhananjay Deo

and Mr.Sumedh Atul More are directed to surrender themselves to the Investigating officer in connection with the CR No.1205 of 2023 registered by the Police Station, Hinjewadi for the offences punishable under Sections 379, 403, 406, 418, 420 read with Section 34 of the IPC, Sections 43, 43(a) and 66 of the Information Technology Act and Section 447 of the Companies Act, within ten days of this order in a day time at 10:00 a.m. The Investigating Officer may interrogate and recover the muddemal property within twenty four hours from the time of surrender by the applicants / accused. After completing the interrogation and recovery of muddemal, the Investigating Officer shall release the applicants / accused on bail after twenty four hours on their executing P.R.Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two solvent sureties each, in the like amount.

- (iii) The applicants / accused are further directed to attend the Police Station, Hinjewadi as and when called by the Investigating Officer for the purpose of investigation till filing of the charge-sheet and co-operate in the investigation.
- (iv) They are further directed not to give any threat, inducement or promises to the prosecution witnesses and not to tamper any prosecution witness, in any way.”

4. The learned counsel for the applicants submits that condition (ii) in the above-quoted portion of the order, in a manner of speaking, takes away the relief that is granted by the Sessions Court itself, having found that a case for granting anticipatory bail is made out by the applicants. The tenor of the language in clause (ii) of the above-quoted order cannot be said to be strictly in adherence of the position of law clarified by the Supreme Court in the case of *Gurubaksha Singh Sabia Vs. State of Punjab*, **1980 SCR (3) 383**.

5. The learned APP, on the other hand, submits that the aforesaid direction can be said to be in consonance with the position of law. It is submitted that the aforementioned clause itself states that the investigating officer shall release the applicants after 24 hours on

executing P.R. Bond with one or two sureties each in the like amount.

6. The learned counsel, having instructions to appear on behalf of the first informant, submits that the law as laid down by the Supreme Court in the aforementioned judgement of the Supreme Court in the case of **Gurubaksha Singh Sabia Vs. State of Punjab** (*supra*) has been correctly applied in the facts of the present case. It is submitted that the *muddemal* property in the present case is the machinery specified in the statement leading to registration of the FIR.

7. At this stage, the learned counsel for the applicants, on instructions, makes a statement that the applicants shall produce the machinery specifically referred to in the statement of the first informant, leading to registration of the FIR i.e. BOD Incubator and the other two machines.

8. If that be so, it would be in the interest of justice that clause (ii) of the said order dated 24.09.2024 passed by the Sessions Court is stayed and the applicants are directed to abide by the statement made before this Court.

9. Accordingly, clause (ii) of the order dated 24.09.2024 passed by the Sessions Court is stayed until further orders. Instead, it is directed that, till the next date, in the event the applicants are arrested in connection with the aforementioned FIR, they shall be released on bail on furnishing P.R. Bond of Rs.25,000/- each and one or two sureties each in the like amount.

10. As per the statement made before this Court today, the applicants shall produce the aforementioned machines referred to in the FIR before the investigating officer tomorrow i.e. 05.10.2024 by 12 noon. The investigating officer shall execute an appropriate *panchanama* in that

regard. It is made clear that the stay granted to clause (ii) of the order dated 24.09.2024 passed by the Sessions Court is subject to the applicants abiding by the aforementioned direction of producing the machines referred to in the FIR before the investigating officer, as directed hereinabove.

11. The *panchanama* that would be executed by the investigating officer, as indicated above, shall be placed before this Court through the learned APP on the next date of listing.

12. List for further consideration on 24.10.2024 in the supplementary list.

(MANISH PITALE, J.)

Minal Parab