

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO.983 OF 2024****Prabhakar Ramchandra Desai****....Applicant****V/s.****The State of Maharashtra and
Anr.****....Respondents**

Mr. Sanjeev Kadam *with Mrs. Anjali Purav for the Applicant.***Ms Shilpa K. Gajare-Dhumal**, *APP for Respondent No.1-State.*

CORAM : SANDEEP V. MARNE, J.**Dated : 8 August 2024.****PC. :**

1. It is disturbing that this is a second occasion when Applicant is required to move this Court with a complaint that the anticipatory bail application filed by him is not being decided by the learned Special Judge. Previously, Criminal Application (stamp) No.15503 of 2024 was filed complaining that though the anticipatory bail application has been fully heard on 12 July 2024, the same was not being decided by the learned Judge. This Court accordingly passed following order on 25 July 2024:-

1. It must be observed at the very outset that this application raises a rather unusual grievance where Applicant's application for Anticipatory Bail or at least prayer for grant of interim relief has not been decided

by the Learned Additional Sessions Judge, Kalyan. It appears that, in respect of the FIR dated 25 June 2024, Applicant filed application for Anticipatory Bail on 3 July 2024. So far the Anticipatory Bail Application appears to have been listed before the Learned Judge on at least 6 occasions on 4 July 2024, 8 July 2024, 12 July 2024, 16 July 2024, 19 July 2024 and 23 July 2024. In fact the Rojnama dated 12 July 2024 would indicate that the arguments have been heard by the learned Judge on the said date and the application was adjourned to 16 July 2024 for passing order.

- 2) Mr. Kadam, the learned counsel appearing for Applicant would submit that the Learned Presiding Officer is on leave and according to him, the charge of the Court has not been assigned to any other judge. This according to Mr. Kadam is the reason for filing the present application before this Court.
- 3) Considering the above position, the Learned Additional District and Sessions Judge, Kalyan is requested to decide at least the prayer for interim relief in an expeditious manner. In the event, the learned Judge is on leave, the Principal District Judge, Thane is requested to assign the Criminal Bail Application to appropriate Judge for deciding the prayer for interim relief in an expeditious manner.
- 4) With the above directions, Criminal Application is disposed of.

2. Now the present Criminal Application is filed once again complaining that the learned Judge has still failed to decide either the Anticipatory Bail Application or even prayer for grant of interim protection.

3. Mr. Kadam, the learned counsel for the Applicant would submit that order passed by this Court on 25 July 2024 has been brought to the notice of the learned Judge.

4. My attention is invited to the Roznama after passing of the order dated 25 July 2024. It appears that the anticipatory bail application was listed before the learned Judge on 31 July 2024 for the purpose of passing orders. However, the Roznama reflects that the Court was busy in other sessions cases and therefore the application was adjourned to 3 August 2024. When the application was called out on 3 August 2024, once again it is recorded in the Roznama that the Court was busy in recording evidence and the application is adjourned to 7 August 2024. When the application was once again called out for orders on 7 August 2024, without recording any particular business that is transacted on the said date, the application is shown to have been adjourned to 26 August 2024 for passing orders. This is how the anticipatory bail application heard by the learned Judge on 12 July 2024 is kept pending and has not been decided till date. What is most shocking is non-decision of the application or at least prayer for interim protection despite specific request made by this Court on 25 July 2024. Apart from impropriety in keeping the Anticipatory Bail Application for passing order since 12 July 2024, ignorance of request made by this Court by order dated 25 July 2024 is more disturbing. This Court could have issued a direction to decide the Anticipatory Bail Application which was pending passing order since dated 12 July 2024. However, instead of directing the learned Judge to decide the Anticipatory Bail Application within a time frame this Court thought is prudent to 'request' the Court to decide the same. It appears that the learned Judge is expecting a 'direction' of this Court for decision of Anticipatory Bail Application, which is being done by this order.

5. The Registrar General of this Court shall bring this order to the notice of the learned Judge. The learned Judge is now directed to decide the Criminal Bail Application No.1363 of 2024 within a period of one week from today by giving due intimation of date to the learned APP as well as to the Advocate for the Complainant.

6. In order to ensure compliance of directions, list the Criminal Application on **19 August 2024**.

[SANDEEP V. MARNE, J.]

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