

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

Anticipatory Bail Application No. 1930 of 2024

Rishina Mihir Jethwa

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Bhavesh Parmar a/w. Ms. Reshma Nair, Mr. Aman Jhawar i/b.
Gravitas Legal, for the Applicant.

Ms. Mahalaxmi Ganapathy, APP for the Respondent – State.

PSI S. L. Doke, Borivali Police Station present.

Coram : R. N. Laddha, J.

Date : 12 July 2024

P.C.

. The present application filed by the present applicant under Section 438 of the Code of Criminal Procedure, 1973, apprehending arrest in connection with an F.I.R. No.464 of 2024, registered at Borivali Police Station, Mumbai, for the offences punishable under Sections 120-B, 406, 420, 504 and 506 read with 34 of the Indian Penal Code

2. The learned counsel for the applicant makes a grievance that the trial Court has yet to make a decision on the anticipatory bail application filed since 1st July 2024. Despite three

subsequent adjournments, the application remains undecided. The Maharashtra Amendment specifies that the Court of Sessions may either promptly reject an application or issue ad-interim order for granting anticipatory bail. This provision further clarifies that by the proviso to sub-section (1) of Section 438, which explicitly states that if the Court of Sessions does not pass an interim order under this sub section or rejects the application for anticipatory bail, the investigating officer may proceed to arrest the applicant without a warrant based on the allegations mentioned in the application.

3. The learned counsel for the applicant invites attention of this Court's order passed by this Court in ABA No.2899 of 2021 to state that Section 438 of Cr.P.C. aims to safeguard an individual's liberty while their anticipatory bail application is pending consideration. Accordingly, the Sessions Court should have either granted interim protection or outrightly rejected the application, rather than leaving it in a state of uncertainty.

4. In the circumstances, it is directed that the trial Court shall promptly hear and decide the applicant's anticipatory bail application within a period of one week from today, based on its own merits and in accordance with the law.

5. In the meanwhile, no coercive action should be taken against the applicant pending decision of anticipatory bail

application by the Sessions Court.

6. Needless to state that if any adverse order is passed against the applicant, the interim protection granted by this Court, will remain in effect for an additional period of one week from the date of that order. This extension allows the applicant to approach the higher Court.

7. The application stands disposed of accordingly.

R. N. Laddha, J.