

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.46 OF 2024

Mohan Agarwal Applicant

V/s.

State of Maharashtra & Ors. Respondents

Mr.J.S. Kini a/w Mr.Aum Kini i/b Ms.Sapna S. Krishnappa, for
the Applicant.

Mr.Kiran C. Shinde, APP, for Respondent-State.

Mr.Rajendra Saluja a/w Mr.Chandrakant Sharma, for Respondent
No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 02nd APRIL 2025

P.C:-

. Heard learned counsel for the Applicant, learned
APP and learned counsel for Respondent No.2.

2. It is contention of the learned counsel for the
Applicant that, the learned Sessions Judge of City Civil and
Sessions Court has granted anticipatory bail to Respondent Nos.3
and 4 in Crime No.174 of 2023 on wrong conception. The
learned counsel further submitted that, the learned Sessions
Court has observed that, two FIR's have been registered against

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the Respondent Nos.3 and 4 for same transaction, which is erroneous.

3. The learned counsel further submitted that, initially FIR No.89 of 2023 was registered against the Respondent Nos.3 and 4 with Pydhonie Police Station, on the complaint of the Applicant. Thereafter, the said FIR was transferred to Economic Offence Wing (EOW). When the said FIR transferred to EOW it was numbered as EOW FIR No.16 of 2023. Thereafter, the said FIR's online number was 174 of 2023, so it cannot be said that separate FIR's were filed. But this fact is not considered by the learned Sessions Judge and has granted anticipatory bail to Respondent Nos.3 and 4. The allegations against the Respondents are that they have embezzled Rs.25 Crores. Hence, requested to allow the Application and cancel the bail granted to the Respondent Nos.3 and 4.

4. It is contention of learned APP that, on the complaint of the Applicant only one FIR is registered against the Respondent Nos.3 and 4. Though the different numbers are given to the said FIR, it cannot be said that separate FIR's are

filed against Respondent Nos.3 and 4. There is error in the order of the learned Sessions Judge and requested to cancel the bail granted to the Respondent Nos.3 and 4 as their custodial interrogation is required.

5. It is contention of the learned counsel for Respondent Nos.3 and 4 that, the learned Sessions Judge has passed well reasoned order observing that, two FIR's have been registered against these Respondents for same transaction, it cannot be done. The learned counsel further submitted that, charge-sheet has been filed against Respondent Nos.3 and 4. Investigation is completed, so their custodial interrogation is not required and requested to reject the Application.

6. I have heard all learned counsel. Perused FIR and documents produced on record and impugned order passed by the learned Sessions Judge.

7. While passing order in Paragraph No.26, the learned Sessions Judge has observed that, two FIR's have been registered against Respondent Nos.3 and 4 for same transaction, it cannot be done and by referring judgment of the Hon'ble Apex Court,

the learned Sessions Judge has allowed the Anticipatory Bail Application of the Respondent Nos.3 and 4.

8. I am unable to understand the observations of the learned Sessions Judge, as the Applicant had filed complaint with the Pydhonie Police Station against Respondent Nos.3 and 4 and on that basis FIR was registered in Pydhonie Police Station. There are allegations of fraud of Rs.25 Crores, hence, it was transferred to EOW and said FIR was separately registered in EOW by giving No.16 of 2023 and the same FIR was in online mentioned as FIR No.174 of 2023, so no separate FIR was registered against the Respondent Nos.3 and 4, but this fact is not considered by the learned Sessions Judge. The learned Sessions Judge has not decided the Anticipatory Bail Application on merit, hence it is necessary to remand the matter to learned Sessions Judge for deciding it on merit and I pass following order.

ORDER

- (i) The Application is allowed.
- (ii) The impugned order passed by the learned Sessions Judge in Anticipatory Bail Application

No.1161 of 2023 in CR No.16 of 2023 (CR No.174 of 2023) registered with Pydhonie Police Station, Mumbai granting anticipatory bail to Respondent Nos.3 and 4 is quashed and set aside.

(iii) The learned Sessions Judge shall decide the anticipatory bail application No.1161 of 2023 Filed by the Respondent Nos.3 and 4 at fresh on its own merit.

(iv) Till decision of the said Application interim protection is granted to Respondent Nos.3 and 4.

(v) The learned Sessions Judge is requested to decide the said Application as early as possible.

(vi) The bail Application is allotted as per roaster.

(vii) All pending Applications are disposed of.

(SHIVKUMAR DIGE, J.)