

SUPREME COURT OF INDIA

Phiroz Ibrahim Khan

Vs.

Ismail Ibrahim Sayeed

C.A.No.90 of 2009

(D.K. Jain and R.M. Lodha JJ.)

19.01.2009

ORDER

1. Leave granted.

2. These two appeals have been filed by the State and by the complainant against order, dated December 27, 2007, passed by the High Court of judicature at Bombay in Criminal Application No. 4145 of 2007, whereby the High Court has granted anticipatory bail to the respondent-Ismail Ibrahim Sayeed.

3. Accordingly to the appellants, since there are serious allegations against the respondent in the charge-sheet, the High Court erred in granting anticipatory bail to him.

4. Learned counsel for the respondent, on the other hand, while supporting the order passed by the High Court, has submitted that the incident had taken place due to business rivalry and further no specific role having been attributed to the respondent, the High Court was justified in granting anticipatory bail to the respondent. Learned counsel has pointed out that during the pendency of these appeals, the respondent had moved an application for grant of regular bail before the trial Court. However, the said application was opposed by the complainant, inter alia, on the ground that the order granting anticipatory bail to the respondent had been challenged before this Court and the special leave petitions were pending. Taking note of the said fact, the trial Court has declined to entertain the application filed by the respondent for grant of bail. A copy of order dated October 17, 2008, has been placed on record.

5. Bearing in mind the fact that the charge-sheet has already been filed against the respondent and the trial Court is seized of the matter, we feel that it would be appropriate if the respondent is permitted to file a fresh application before the trial Court for grant of regular bail.

6. Accordingly, we dispose of the appeals with liberty to the respondent to apply for regular bail before the trial Court within two weeks from the receipt of the copy of this order. As and when such an application is preferred, the same shall be considered on its own merits,

uninfluenced by order dated December 27, 2007, passed by the High Court, granting anticipatory bail to the said respondent. We further direct that the order passed by the High Court, impugned in these appeals, shall remain in force till respondent's application for grant of regular bail is disposed of. The trial Court would do will to dispose of the bail application expeditiously, preferably within four weeks of its presentation.