

SUPREME COURT OF INDIA

Dalip Babulal Tapadia

Vs.

State of Maharashtra

Crl.A.No.682 of 2009

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

09.04.2009

ORDER

1. Leave granted.

2. This appeal is directed against order dated 21st July, 2008 passed by the High Court of Judicature at Bombay in Criminal Appeal No. 874 of 2008. By the impugned order, the High Court has declined to extend to the appellant the protection of anticipatory bail under Section 438 of the *Code of Criminal Procedure, 1973*, in FIR No. 48 of 2008, filed in Deccan Police Station, Pune under Sections 420, 467, 468, 471 read with Sections 34 and 511 of the Indian Penal Code. By virtue of the said order, the High Court had directed the appellant to surrender before the Trial Court by 31st July, 2008.

3. When the matter came up before the learned Chamber Judge on 6th August, 2008, application filed by the appellant for exemption from surrendering was dismissed as not maintainable as the appellant had only been denied the privilege of anticipatory bail.

4. No one appears on behalf of the State. Accordingly, we have heard learned counsel for the appellant and the de facto complainant.

5. It is submitted by learned counsel for the appellant that as per his instructions investigation in the complaint are complete and shortly the prosecution is likely to take further steps in the matter.

6. Having regard to the facts and circumstances of the case and bearing in mind the fact that F.I.R. was lodged as far back as in January 2008 and so far no action has been taken against the appellant despite rejection of his prayer for anticipatory bail in July 2008, and further there is no allegation against him regarding non-cooperation in the investigation, we dispose of the appeal with the direction that in the event of filing of charge sheet against the appellant and on being informed by the Public Prosecutor about the filing of charge sheet, he shall surrender before the trial Court and apply for regular bail. It goes without saying that the application of the appellant for grant of regular bail shall be considered in its correct

perspective in accordance with law. However, if the investigations are still incomplete, in the event of his arrest he shall be admitted to bail on his furnishing personal bond in the sum of Rs. 20,000/- with one surety in the like amount to the satisfaction of the Investigating Officer, which will continue to be in force till appropriate orders are passed on appellant's application for regular bail.

7. Before closing, we may note that it has been brought to our notice that yet another FIR being No. 207 of 2008 has been filed against the appellant on 25th June, 2008 in the same Police Station. We clarify that this order will have no bearing whatsoever, insofar as the said FIR is concerned.