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**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

**S.B. Criminal Miscellaneous Bail Application
No.3125/2021**

Than Singh S/o Bhanwar Singh, Aged About 25 Years, R/o
Bheemnagar Ps Bayana Dist. Bharatpur

-----Petitioner

Versus

State Of Rajasthan, Through PP

-----Respondent



For Petitioner(s) : Mr. Sunil Kumar, through VC
For State : Mr. Rajendra Yadav, AAG, through VC
Mr. Mangal Singh Saini, PP

HON'BLE MR. JUSTICE PANKAJ BHANDARI
Order

17/05/2021

1. This matter comes up on an anticipatory bail application filed for offences under Sections 457 and 354 of IPC read with Section 67 of I.T. Act.
2. Present is a case wherein the maximum sentence, which may be awarded after conviction, may extend to 3 years. Apprehending arrest, petitioner moved an anticipatory bail application before the Sessions Judge and on dismissal of the same, has approached the High Court.
3. There is a huge pendency of bail applications and as on date, as many as five Judges at Jaipur Bench of Rajasthan High Court are hearing bail matters in addition to Miscellaneous Petitions, Criminal Appeals etc., which are assigned to them.
4. This Court is alive of the fact that in cognizable and non-bailable offences, police has a right to arrest the accused. This Court is also conscious of the fact that there are limitations of the Court in passing orders relating to other First Information Reports.



However, taking note of grave condition of the pandemic, lock-down and various guidelines issued by the State to restrict the number of employees coming to work place, it was deemed proper to hear learned Additional Advocate General.

5. A query was put to learned Additional Advocate General as to whether the police, which is involved in other more important task of enforcing the lock-down, be directed not to arrest an accused charged with offence punishable with a term, which may extend upto 3 years till situation normalizes and for the time being, till 17th of July, 2021, to which the learned Additional Advocate General replied in affirmative.

6. Further, this Court is also of the opinion that the arrest of persons in cases where imprisonment extends upto 3 years and are triable by First Class Magistrate under present circumstances will prove to be counter-productive. If a person, who is arrested and produced before the Magistrate and thereafter, sent to Jail is an asymptomatic carrier of Covid-19, the inmates may be put at risk.

7. Taking note of the above and also in view of larger public interest, this Court is of the view that the police may be restrained for the time being from making arrest of the accused persons, who are charged with offence where maximum sentence is upto three years, till 17th July, 2021. Thus, listing of bail applications under Section 438 Cr.P.C both before Sessions Court as well as High Court will be avoided.

8. Learned Additional Advocate General has requested the Court to pass appropriate order so that Director General of Police (for short "DGP") may be informed to comply with the same.



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9. In light of the discussions made hereinabove and considering the suggestions, I deem it proper to direct the DGP to issue instructions to all the Officers concerned in the State of Rajasthan not to make arrest of persons in cases where accused is charged under an offence where maximum sentence extends upto three years and the offence is triable by First Class Magistrate. The order would remain in operation till 17th July, 2021.

10. A copy of this order be sent to the Registrar General for issuance of necessary directions. The Registrar (Judicial), Jaipur Bench, Jaipur & the Registrar (Judicial), Principal Seat, Jodhpur, are directed not to list bail applications under Section 438 Cr.P.C in offences where maximum sentence extends upto three years and the offence is triable by First Class Magistrate till reopening of Courts after Summer Vacation.

11. A copy of this order be sent to learned Additional Advocate General for onward transmission to DGP. A copy of this order be also sent to DGP through FAX for issuance of necessary instructions to all the Officers concerned.

12. Let matter be listed on 15.07.2021.

सत्यमेव जयते (PANKAJ BHANDARI),J

NIKHIL KR. YADAV /56