IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL   APPLICATION NO. 4700 OF 2008

Jang Bahadar Singh Gujral   ....Applicant

V/s.

Union of India & Ors.   ....Respondent

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Mr.Uday P.Warunjikar, adv.for applicant.

Mr.H.J.Dedhi, APP for respondent.

Mr.Ramesh Hanumantha, Senior Intelligence Officer, DRI, Mumbai

present.

CORAM: SMT.R.P.SONDURBALDOTA, J.

(VACATION JUDGE)

DATED: 31ST DECEMBER, 2008.

P.C. :

1.   On 24th December, 2008 the Sessions Court passed an

   order extending the interim anticipatory bail granted to the

   applicant by this court. At the end of the order, there is a

   note directing the applicant to remain present before the

Sessions Court on 6th January, 2009 without fail. The present Criminal application is filed taking objection only to the note. It is submitted that such an direction could not have been given by the Sessions Court without a specific application made from the prosecution. Mr.Warunjikar submits that Section 438 (1-B) Cr.P.C. requires that an application is made by the prosecution for the purpose. Mr.Warunjikar also submits that if on the adjourned date the court is not inclined to grant anticipatory bail to the applicant and if he is arrested on that day, he will not be in a position to challenge the order passed on the application.

2.   I find no substance in the submission that unless there the is a specific application in writing made by Public Prosecutor the court is powerless in issuing directions for securing presence of the applicant seeking anticipatory bail at the time of final hearing of the application.   The provision of sub-section (1-B) would only be an enabling provision for the prosecution and no restraint upon the court can be read into the provision.   Hence, no ad-interim reliefs. Mr.Warunjikar agrees that with refusal of the ad-interim reliefs, nothing remains to be considered in the Criminal Application. The same is therefore finally disposed off.

3.   Mr.Warunjikar makes an oral application that the

applicant be granted protection for some period from his arrest after the date 6th January, 2009.   Since, the application for anticipatory bail is pending for consideration of the Sessions Court, the application is rejected.

[JUDGE]