

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 127 OF 2015

Navin Dharshi Shah .. Applicant

Versus

State of Maharashtra & Anr. .. Respondents

Mr. Mahesh Jethmalani, Senior Counsel a/w Pranav Badheka a/w
Rahul Moghe i/b Chaitra R. Pawar, Advocate for the applicant.

Mr. V.B. Konde-Deshmukh, APP for the respondent-State.

Mr. Chitranjan Kumar, Advocate for the respondent No. 2.

CORAM:-M.L. TAHALIYANI,J.

DATED : -09/02/2015

P.C.

Heard the learned counsel for the parties.

2 The point which comes for determination in the present application is as to whether revision lies against the order passed by the learned Magistrate u/s 437(5) of Cr. P.C. cancelling the bail.

3 Mr. Mahesh Jethmalani, the learned Senior Counsel has submitted that respondent No. 2 should have moved an application u/s 439 (1) of Criminal Procedure Code for grant of bail.

The applicant is also aggrieved by the interim stay granted by the sessions Court without hearing the applicant.

4 In my opinion, as far as stay is concerned, the applicant should have moved the sessions Court for vacating the stay. As regards the jurisdiction of sessions Court to entertain revision application against the impugned order of the learned Magistrate is concerned, it can be stated that the issue can be raised at the time of hearing of the revision application filed by respondent No. 2. It need not be stated here that since the point raised in the present application can be raised before the sessions Court also, the sessions Court will frame the said issue and decide accordingly.

5 The application stands disposed of.

(JUDGE)

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