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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.315 OF 2015

Kirti Manmohandas Kanakia ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr.Kamran Shaikh i/b Mr.O.A.Siddiqui, for the Applicant.
Mr.S.H.Yadav, APP for the Respondent – State.
PI – Waghmare, EOW, Unit – 1, Mumbai.

CORAM : REVATI MOHITE DERE, J.
DATED : 23rd MARCH, 2015.

PC.

1. Heard learned counsel for the Applicant and the learned APP for the Respondent – State.

2. It appears that the applicant had preferred an application seeking his enlargement on bail, being Bail Application No.1638 of 2013 in the Sessions Court. It appears that vide order dated 19th August, 2013, the learned Sessions Judge was pleased to enlarge the applicant on interim bail, for a period of three months. The said interim bail was granted to the applicant only on the ground, that the applicant had agreed to deposit a certain sum of money and wished to amicably settle the matter with the

complainant – bank. Admittedly, the said application was never considered on merits. The learned Sessions Judge vide order dated 25th November, 2013 granted extension of one month to the applicant to enable him to comply with the earlier order and to satisfy the debt of the complainant – bank. The learned Sessions Judge, subsequently vide order dated 6th March, 2014, rejected the bail application only on the ground, that despite seeking extension, the applicant had not complied with the earlier orders passed by the Sessions Court nor had settled the matter amicably with the complainant - bank. The said order dated 6th March, 2014, was challenged by the applicant in this Court by filing Criminal Bail Application Nos.488 and 489 of 2014. It appears that the said application came to be rejected by this Court (Coram :Smt.Sadhana S. Jadhav,J.), vide order dated 13th October, 2014, only on the ground that the applicant had failed to comply with the one time settlement as was agreed by the applicant. Paras 3 and 4 of the order dated 13th October, 2014, reads thus :-

- “3. The applicant was granted interim bail by the Sessions Court vide order dated 19.8.2013 only to satisfy the debt of the concerned Banks. It appears that before the Sessions Court, the applicant had submitted that he is making sincere efforts to repay the debt of the Banks

and therefore he was granted protection. By an order dated 6.3.2014, the Sessions Court, had withdrawn interim orders and had rejected the application since it was observed that although the Bank has agreed for one-time settlement and also accepted the proposal and schedule as was offered by the applicant for repayment as per the letter dated 18.12.2013. The applicant had not approached the Axis Bank. A period of three months was granted to the applicant to settle the debt. However, even after expiry of 3 months, the applicant had not taken concrete steps to comply with the one-time settlement. No document was produced before the Court to show that the condition was complied by the applicant and, therefore, the Sessions Court had rightly observed that there are no satisfactory reasons for confirming the interim bail which was granted in favour of the applicant. In these premises, the application was rejected by an order dated 6.3.2014. The said order is impugned before this Court by the present applicant i.e Criminal Bail Application Nos.488 of 2014 and 489 of 2014.

4. This Court vide order dated 19.3.2014, at the time of production, had extended the interim relief granted in favour of the applicant. The said interim protection was extended from time to time only because the applicant

had demonstrated before this Court that he is making efforts to repay the debt of the respective Banks. On 7.5.2014, the Intervenor Banks had demonstrated before the Court that the applicant is not making any proposal though assured before the Sessions Court and also at the time of hearing before this Court. On 7.5.2014, this Court was hopeful that the applicant would submit a written proposal till the next date. This Court had also made efforts to see that the applicant complies with the assurance of making efforts to repay the debt of the Banks. The money involved is a public money and it is apparent on the face of the record that the applicant had misled the Banks at the time of soliciting loans. Before this Court, the Investigating Officer of the Economic Offences Wing was also directed to give a photocopy of the documents to Citi Bank as well as to the applicant. The applicant was also directed to furnish a copy of the agreement in his possession to both the Banks i.e. Citi Bank as well as Axis Bank for the purpose of verification.

3. Admittedly, the bail applications, both, before the learned Sessions Judge and this Court were not considered on merits. Learned Counsel for the applicant hence seeks leave to withdraw this application with liberty to file a fresh application before the Sessions Court to enable the applicant, to pursue the same on merits.

4. Learned APP does not dispute the fact that the applications, both before the learned Sessions Judge and this Court were not heard and argued on merits.

5. In view of the said fact, the applicant is permitted to withdraw this application, with liberty to file a fresh application before the learned Sessions Judge.

6. It is made clear, that this Court has not gone into the merits of the said matter and the Sessions Judge shall decide the Application for bail, if filed, on merits, in accordance with law, uninfluenced by the withdrawal of this Application.

7. Accordingly, the Application is disposed of as withdrawn.

8. Parties to act upon an authenticated copy of this order.

(REVATI MOHITE DERE, J.)