

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 886 OF 2015

Hasin @ Yasin Idris Khan	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Ms. Tahera Abdul Rahsid Qureshi i/b. Mr. Yakub Shaikh, Advocate, for the applicant.

Ms. Rutuja Ambekar, APP, for the State

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 3rd July, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein was arrested on 25.10.2012 in Crime No.201 of 2012 registered at Deonar Police Station under Section 307 of IPC.

2. The applicant was granted bail by an order dated 1.1.2013. It appears that charge sheet was filed in September 2014. It is a matter of record that notice could not be served upon the applicant to inform him about the date of filing of charge sheet and therefore, non-bailable warrant was issued against him. The non-bailable warrant was executed and the applicant was taken into custody on 28.8.2014. The applicant was present

at the time of filing of charge-sheet. It appears from the record that the applicant was released on cash bail. That he had not furnished surety as he was released on cash surety. The first application filed by the applicant was rejected vide order dated 20.11.2014 on the ground that there was no averment that the applicant would furnish surety. In view of this, the applications filed by the present applicant were rejected on two subsequent occasions.

3. The learned counsel for the applicant submits that the applicant was granted bail on merits by an order dated 1.1.2013. That thereafter he was not properly guided by the Advocate representing him and therefore it was presumed by him that once the cash bail is granted, he need not furnish surety. In view of this, he had not furnished surety. It is a matter of record that he was granted bail on merits and pursuant to non-bailable warrant he has been taken into custody. The order dated 31.3.2015 further reflects that the C.A. Report is negative. However, the learned Sessions Judge was of the opinion that this would not be proper stage to consider the C.A. Report. The applicant is being prosecuted for the offence punishable under Section 307 of IPC. The applicant has been in jail for the last 10 months after he was arrested pursuant to the non-bailable warrant.

Initially also, the applicant was in jail for almost two and half months. In view of this, the application deserves to be allowed. It is made clear that the merits of the application are not being considered. The applicant is being granted bail on imposing certain conditions.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on every alternative Sunday between 10a.m. To 1 p.m. till conclusion of the trial.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)

