

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.713 OF 2014

Santander Tarazowa Prado

.... Applicant

V/s.

The Union of India & Anr.

.... Respondents

Ms. Sartaj Shaikh a/w. Mr. Swapnil Ovalekar
(appointed Advocates) for the Applicant.

Mrs. U.V. Kejriwal, A.P.P., for the Respondent-State.

Ms. Uma Palsuledesai for Respondent-CBI.

CORAM : P.V.HARDAS &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 2ND FEBRUARY, 2015.

P.C. :

1. This application is received from the Jail. Applicant is Original Accused No.1 in N.D.P.S. Special Case No.111 of 2012 pending before the Special Court under N.D.P.S. Act at City Civil and Sessions Court, Mumbai.

2. By this application, the Applicant is submitting that he is in judicial custody since last two years and ten months. Till date, only two Prosecution Witnesses have been examined as against the 64 witnesses

cited in the Charge-Sheet. The trial, therefore, will take a very long time to complete. The Prosecution is unnecessarily causing delays in conducting the trial. He has further submitted that, under Section 309 of the Cr.P.C., he is having right to speedy trial and, therefore, necessary direction be given for conducting the trial on day-to-day basis. Ms. Sartaj Shaikh, the appointed Counsel for the Applicant, has submitted that, earlier also, the order for conducting the trial on day-to-day basis was passed, but, even then, there is not much progress in completion of the trial. Therefore, similar order is required to be passed again.

3. On behalf of the Prosecution, an affidavit of Shri. Kaushik Manna, who is working as an Intelligence Officer in Narcotics Control Bureau, Mumbai Zonal Unit, is filed. He has, on the basis of certified copy of the Roznama of the case, has denied that Prosecution is adopting dilatory tactics in completion of this case or delaying hearing of the case unnecessarily. He has submitted that this Court, while disposing of Criminal Bail Application No.1935 of 2012 filed by Accused No.4, has given directions on 21st January, 2013 for expediting hearing of the case by fixing a programme of the trial and for adhering to such programme and to dispose of the case as far as possible within a period of one year, taking into consideration the other cases of under-trial prisoners, who may

be in jail for longer periods. Thereafter, the Special Court has framed the charge against the Accused. However, the matter was delayed as the present Applicant gave the application stating that he is not conversant with English language. He knows only Spanish language. Hence, appointment of an Interpreter was necessary. As a result thereof, some time was consumed in securing the presence of such an Interpreter. Within 15 days after framing of charge, the examination of the first Prosecution Witness commenced on 16th July, 2013 and, thereafter, though the Special Court insisted for trial on day-to-day basis, as per the directions of this Court, Accused No.3 moved this High Court again and sought an order that trial should not to be held on day-to-day basis as both the Counsels were facing difficulties.

4. According to the Prosecution, for some period, as can be seen from the Roznama, the Special Court was not having Presiding Officer and, hence, the trial could not be progressed. It is submitted that there are four Accused involved in the case, as the case involves seizure of 29.080 kgs. of Cocaine, out of which 10 kgs. of Cocaine is recovered from the possession of the Applicant. There is charge of conspiracy, which is spreading over nearly six months, and, hence, the Prosecution may require some time to complete the trial. Even then the Prosecution is

making all the endeavours to proceed as expeditiously as possible in the trial of the case.

5. In our considered opinion, this affidavit of the Intelligence Officer is self-eloquent to reveal that the Prosecution is making all the endeavours to proceed at the earliest in the trial of the case. The earlier order of conducting the trial on day-to-day basis being recalled at the instance of Accused No.3 itself, now this application again seeking the direction for trial on day-to-day basis, cannot be entertained. Hence, this application stands dismissed. The Applicant, who is in Jail, be informed about this order.

6. Fees payable to Ms. Sartaj Shaikh, the learned Counsel appointed on behalf of the Applicant in the present Criminal Application, is quantified at Rs.2,000/-.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[P.V.HARDAS, J.]