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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 431 OF 2016

Vasantrao Wamanrao Morey	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

Mr. Abbad Ponda, Mr. Sandeep Barve, Mr. Santosh Wagh i/b B. K. Barve & Co. for the Applicant.

Ms. S. S. Kaushik, APP for the State.

Mr. Arjun Kode for the Intervener.

CORAM : A. S. GADKARI, J.
DATE : 26th OCTOBER, 2016.

P. C. :

1. The present application under Section 482 of the Code of Criminal Procedure is filed, challenging the order dated 05.04.2016 passed by the learned Additional Sessions Judge, Gr. Mumbai in Misc. Application No. 2943 of 2015 thereby cancelling the bail granted to the applicant by an order dated 14.09.2015 in Bail Application No. 1994 of 2015.

2. The applicant is an accused in C. R. No. 175 of 2014 registered with Navghar Police Station, Mumbai under Sections 420, 406, 465, 468, 201 read with Section 34 of the Indian Penal Code. The applicant was arrested on 26.09.2014 by the Investigating Agency. That by an order dated 14.09.2015 the applicant was directed to be released on bail on the basis of the undertaking given by him before the Trial Court. As

per the said undertaking, the applicant was to deposit certain amounts before the Trial Court within stipulated period. As the applicant did not comply with the said undertaking, the Investigating Agency filed an application bearing Misc. Application No. 2943 of 2015 for cancellation of bail granted to the applicant. The learned Additional Sessions Judge, Greater Mumbai by its order dated 05.04.2016, was pleased to allow the said application and cancel the bail granted by an order dated 14.09.2015 in Bail Application No. 1994 of 2015. The said order is impugned herein.

3. The present application is filed on 15.04.2016. That by an order dated 17.06.2016 passed by this Court the impugned order was stayed subject to the condition that the applicant shall deposit Rs.10,00,000/- before the trial Court on or before 20.06.2016 and the present application was adjourned to 22.06.2016 for further consideration. The said interim relief was also granted with a direction to file an undertaking before this Court for deposit of the payment totalling to Rs.1,97,77,500/-.

That, the applicant has thereafter filed an additional affidavit dated 21.06.2016 in this Court giving a schedule of deposit of payment to be made in the Trial Court. The applicant in the said affidavit has given undertaking to this Court that he will deposit the amount mentioned in the schedule on stipulated dates. The record further reveals that in pursuant to the order dated 17.06.2016, the applicant has deposited the amount of Rs.10,00,000/- with the Trial Court. The record reveals that as per the

schedule given by the applicant in his affidavit dated 21.06.2016, the applicant till date has deposited only Rs.15,00,000/- in the Registry of the Trial Court.

4. As the applicant could not comply with the undertaking given by him as per the said affidavit, the period to deposit the remaining amount was extended from time to time with a view to facilitate him to deposit some amount. That, on 13.10.2016 the applicant made a statement before this Court that though he could not comply with the undertaking given by him in his affidavit dated 21.06.2016 till the said date, he will produce the demand draft of Rs.50,00,000/- to be deposited with the appropriate authority on or before 24.10.2016 and the said statement was accepted by this Court. The said fact is recorded in order dated 13.10.2016. As the applicant did not deposit the said amount of Rs.50,00,000/- within stipulated period, the said period was subsequently extended upto today. Today also the applicant has not produced or brought the said demand draft of Rs.50,00,000/-. It is, thus, clear that the applicant has breached the undertaking given by him in his affidavit dated 21.06.2016 and has also did not honour his words, which are recorded in the order dated 13.10.2016.

5. In view of the above, it is clear that the applicant has given undertaking to this Court only with a view to get the interim relief in his favour and/or to protract the hearing of the present application. It further clearly appears to this Court that the applicant is not sincere enough in

honouring the undertaking given by him to this Court. In view thereof, the interim relief granted by an order dated 17.06.2016 is hereby vacated and as a consequence thereof, the present application is accordingly dismissed.

6. The Investigating Agency/Prosecution can take appropriate steps to take the applicant Vasant Rao Waman Rao Morey in custody.

7. The observations made hereinabove are made in the context of deciding the present application and the Trial Court may not get influenced by the same, if the applicant after his arrest or surrender before the police prefers an application under Section 439 of the Code of Criminal Procedure for regular bail.

[A. S. GADKARI, J.]