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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 2833 of 2015

Shri Kiran Raghu Poojari

... Petitioners

Versus

State of Maharashtra and anr.

... Respondents

Mr. Akhilesh Dubey i/by M/s. Law Counsellors for the petitioners.

Mrs.U.V. Kejriwal, APP for the State.

CORAM : NARESH H. PATIL AND

A. M. BADAR, JJ.

DATED : MARCH 10, 2016.

P.C.

1. Rule. Rule is made returnable forthwith by consent.

2. Petitioner prayed for the following reliefs :

“(a) that this Hon'ble Court be pleased to exercise its power under Article 226 and 227 of the Constitution of India and issue a Writ of Certiorari and/or writ in nature of Certiorari and/or any other appropriate writ, order or direction calling for records and proceedings of the Petitioners case and after going into the legality and propriety thereof and quash and set aside the :

(i) order dated the 6th November, 2008 passed by the Respondent No. 2 herein (being Exhibit B hereto) as the same is not based on cogent reasoning and is contrary to the interest of justice and

(ii) Order dated the 20th March, 2013 passed by Respondent No.1 being Exhibit “A” hereto.”

3. It is the petitioner's case that he was accused in CR No. 25 of 2008 (Crime Branch) for the offences punishable under Section 302 read with 120(B) of Indian Penal Code. The investigation was conducted and after complete investigation, the chargesheet was filed and the case was numbered as Sessions Case No 294 of 2009 against eight accused. Petitioner was one of the accused. The case was tried before the Sessions Judge, Mumbai. While the petitioner herein who is accused in the Sessions Case state that he turned approver. The Sessions Case was decided by the judgment and order dated 31st July, 2013. Six accused persons were convicted for life. After the trial, the petitioner was provided security by the State, free of cost. Petitioner submit that the security still continues with him.

4. During the trial the armed licence possessed by the petitioner was cancelled by order dated 6th November, 2008 by the Police Commissioner, Navi Mumbai (Exh. B to the petition).

5. Petitioner has filed an appeal against the said order. By order dated 28th March, 2013, the State Appellate Authority dismissed the appeal (Exh. M to the petition). Petitioner being aggrieved by the said order has filed the present petition.

6. We have heard the learned counsel for the petitioner and learned APP for the respondent State.

7. At the outset, we find that the impugned order passed by the Appellate Authority is an unreasoned order. The issue raised by the petitioner herein is not considered and discussed by the Appellate Authority. It is submitted by the counsel for the petitioner that while he stays in the State of Maharashtra, the State security agency would extend protection but in case the petitioner decides to leave the State, then he needs armed licence for his self protection. All such issues squarely fall for consideration of the Authority concerned. The Authorities are required to exercise their discretion in accordance with the facts and settled parameters in such cases.

8. As the order passed by the Appellate Authority is not a reasoned one, we are inclined to remand the matter back to the Appellate Authority.

9. In the facts, the impugned order dated 20th March, 2013 passed by respondent no. 1 herein (Exh. A) is quashed and set

aside. We direct the Appellate Authority to consider the entire record, hear the concerned parties and pass a fresh reasoned order on its own merits within three months from today. Petitioner is entitled to amend the application and place additional material, if any for consideration of the Appellate Authority. The petition is disposed of accordingly.

(A.M. BADAR,J.)

(NARESH H. PATIL, J.)