

*Ladda*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 915 OF 2013

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr Sunil Kale for the respondent No.1.

Smt. Anamika Malhotra, APP for the Respondent-State.

Mr Y.M. Nakhawa, Spl. P.P. for the CBI-applicant.

CORAM : A.S.GADKARI, J.

DATED : 20TH APRIL, 2016

P.C.

1) By the present application, the applicant CBI (ACB), Mumbai has challenged the order dated 2.11.2012 passed by the learned Special Judge Thane in Criminal Misc. Application No. 154 of 2010 below Exh.8, allowing the said application for return of the property filed by the accused/respondent no.1. The said order dated 2.11.2012 is impugned herein.

2) By the said order dated 2.11.2012 while allowing the application filed by the respondent no.1 for return of property the Trial Court has directed that cash amount of Rs. 23,71,750/- be returned to the applicant therein Smt. Babita w/o Pankaj Garg on her furnishing bank guarantee of Rs.25,00,000/- and a solvent surety to the satisfaction of the Court and shall undertake to make available the said amount as and when required by the Court, during the trial of the said case. By the same order, the Trial Court has also directed that certain bank accounts of the accused

be defreezed which were seized by the Investigating Agency during the course of investigation.

3) The learned counsel appearing for the respondent no.1, on instructions, submitted that as far as the first part of the impugned order i.e. return of the cash amount is concerned, his client is unable to comply with the conditions imposed by the Trial Court. He further submitted that his client has not challenged that part of the order before the High Court. As far as the second part of the order i.e. defreezing of account is concerned, he, on instructions, submitted that the said accounts have already been defreezed and are either in operation by the respondent no.1, or are closed. In view of the aforesaid statement made by the learned counsel for the respondent no.1 that the respondent no.1 is not interested in availing the first part of the order passed by the learned Special Court i.e. return of cash amount, the learned Additional Public Prosecutor submitted that, nothing survives in the present application and the same be accordingly disposed off. The application is accordingly disposed off.

4) The impugned order was passed on 2.11.2012. Prior to passing of the impugned order, the Special Court by a separate order dated 2.11.2012 has already expedited the trial. The learned counsel appearing for the respondent no.1 submitted that while rejecting the discharge application preferred by the respondent no.1, the learned trial Court by its order dated 2.11.2012 has already directed that the trial be expedited. However, he makes a grievance that for the last three years the trial did not proceed. He further submitted that as per the charge-sheet submitted by the Investigating Officer, the investigating agency may examine 10 to 12 witnesses in support of its case. In view of the fact that while rejecting the discharge application of the respondent no.1, the trial Court has already expedited its trial by its order dated 2.11.2012, the

learned Special Judge seized of the Special Case No. 5 of 2010 is hereby directed to expedite the trial and to make an endeavour to complete the same on or before 31.12.2016.

5) The application is disposed off in the aforesaid terms.

(A.S.GADKARI, J.)