

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 666 OF 2016

Pravin Suresh Kamble.

..Appellant.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Nitin S. Satpute for the Appellant.

Mrs. A. S. Pai, APP for the State.

Mr. M. K. Kocharekar for Respondent Nos. 10 to 12.

Coram : Ranjit More &
G. S. Kulkarni, JJ.

Date : **December 16, 2016.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner and the learned Counsel appearing for the Respondent Nos.10, 11 and 12. The appeal is preferred challenging the order dated 21st September 2016 passed by the learned Additional Sessions Judge, Sessions Court, Greater Mumbai in SC-ST Special Case No. 11 of 2016. By the said order, Respondent Nos.10, 11 and 12 are released on bail subject to certain conditions.

2. The only ground on which the said order is challenged is that earlier these Respondents had filed bail

applications, being Bail Application Nos.1260 of 2016, 1422 of 2016 and 1671 of 2016, and the same were rejected by common order dated 20th August 2016. Learned Counsel appearing for the Petitioner contended that since earlier applications of these Respondents were rejected, it was necessary for these Respondents to approach this Court by way of appeal under section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [for short "the said Act"] and second bail application at their instance was not maintainable and therefore the learned Sessions Judge could not have entertained the fresh application and released them on bail. Learned Counsel appearing for the Petitioner also relied upon the unreported decisions of Patna High Court in In Bisheshwar Mishra v. State of Bihar in Criminal Miscellaneous No. 25276 of 2016 dated 9th August 2016 and Narendra Singh v. State of Bihar in Criminal Appeal (SJ) No. 591 of 2016 dated 14th September 2016.

3. We have gone through the impugned order. Perusal of the same reveals that Respondent Nos. 10, 11 and 12 had earlier filed applications for bail and those applications were filed

before filing of the charge-sheet. These applications were rejected by the order dated 20th August 2016. Subsequently, investigation was completed and charge-sheet was filed and thereafter these Respondents filed fresh applications for bail below Exhibit-4, which came to be allowed on merits.

4. The submission of learned Counsel appearing for the Petitioner is that Respondent Nos.10, 11 and 12 ought to have challenged the order rejecting their bail application by filing an appeal under section 14A of the said Act and filing of second bail application is not permissible. We are of the view that there is no prohibition either in the said Act or under the Code of Criminal Procedure, 1973 to file successive applications for bail before the special Court. Respondent Nos. 10, 11 and 12 are always at liberty to file second application before the special Court in the changed circumstances. As stated above, in the present case after completion of investigation and filing of charge-sheet, Respondent Nos. 10, 11 and 12 in law were entitled to file fresh bail applications and that was rightly considered by the special Court and granted bail to Respondent No. 10, 11 and 12 on merits.

5. The reliance placed by learned Counsel appearing for the Petitioner on unreported decisions of Patna High Court in Narendra Singh (supra) and Bisheshwar Mishra (supra) is misconceived. In the said decisions, High Court has merely held that against the order granting or rejecting the bail, appeal is maintainable before the High Court in view of the provisions of sub-section (2) of section 14A of the said Act. These decisions nowhere state that second applications for bail before the same Court is not maintainable. We are unable to accept the interpretation as given by learned Counsel appearing for the Petitioner in the absence of any provision to that effect in the said Act. In our view, it is for Respondent Nos. 10, 11 and 12 either to approach the High Court by way of appeal under section 14A(2) of the said Act challenging the earlier order rejecting bail applications or file fresh bail application before the same Court. Respondent Nos.10, 11 and 12 elected the second option, which cannot be said to be illegal. The appeal is devoid of any merit and the same is therefore dismissed. Stay, if any, is vacated.

[G. S. KULKARNI, J.]

[RANJIT MORE, J.]