

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.701 OF 2016
(Harshal @ Sonu Raju Masram vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri M.N. Ali, Advocate for applicant.

Shri S. Sirpurkar, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : DECEMBER 09, 2016

Heard learned Counsel for the parties.

During the course of hearing, it is found that this Court had called explanation from the concerned trial Judge at Nagpur, who is seized with Sessions Trial No.313/2013, as it was contended by learned Counsel for applicant that though applicant was granted bail earlier, he was taken into custody on execution of non-bailable warrant. One of the grounds mainly canvassed on behalf of applicant was that in spite of applicant along with co-accused being in custody and matter was on board for framing of charge on 28/6/2016, 13/7/2016, 22/7/2016, 25/7/2016, 8/8/2016 and 25/8/2016, no charge was framed. This Court had sought explanation from the concerned trial Judge as concerned trial Judge had observed that there was deliberate intention on the part of applicant for delaying the trial while rejecting his application for bail after he was taken into custody on execution of non-bailable warrant. This Court had found that learned trial Judge

in spite of observing as such, did not frame charge and concerned trial Judge was acting inconsistent with the observations made by him in his order dated 16/5/2016.

On perusal of explanation put forth by learned District Judge-6 and Additional Sessions Judge, Nagpur, it is found that in the trial for the offences punishable under Sections 392, 395 and 201 read with Section 34 of Indian Penal Code, there are total six accused persons and after its committal on 6/7/2013, in spite of same being fixed for framing charge, till 3/10/2016 no charge could be framed as accused including applicant were intermittently absent. It is further noted that non-bailable warrants came to be issued against applicant and three other accused and on execution of non-bailable warrant, applicant was produced before the trial Court. Even thereafter as some other co-accused were not present, no charge could be framed. On 13/7/2016, applicant filed application along with two other co-accused vide Exh. 39, which came to be rejected by learned trial Court on 25/7/2016. It is, therefore, found that an attempt was made on behalf of applicant to seek bail by making wrong statement to the effect that trial Court in spite of applicant being in custody is not framing charge. On the contrary, it is noted that it is only because of delaying tactics adopted by applicant and co-accused, no charge could be framed in the present trial.

In that view of the matter and having considered the fact that applicant was absconding for more than one and half years due to which trial is further

prolonging, application is liable to be rejected at this stage. Hence, following order is passed :

The criminal application is rejected. However, applicant is granted liberty to file a fresh application for bail after framing of charge.

JUDGE

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