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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 570 OF 2017

Satyaprakash Harilal Yadav

...Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. S.V. Marwadi i/b Omkar Nagwekar for Applicant.

Ms. A.A. Takalkar, APP for State.

CORAM: A.S. GADKARI, J.

DATE: 22 MARCH 2017.

P.C.:

1] This is the second Bail Application before this Court. The earlier Bail Application No.777 of 2015 preferred by the applicant was dismissed as withdrawn by this Court by an Order dated 11th February 2016. In the Order dated 11.2.2016, it is observed that after hearing the learned counsel for the applicant, when this Court was not inclined to grant any relief, learned counsel for the applicant on instructions seeks leave to withdraw the application with liberty to file a fresh application, if the trial pertaining to C.R. No.371 of 2013 registered with the Goregaon Police

Station, Mumbai does not commence within a period of one year from the date of said Order.

2] Mr. Marwadi, the learned counsel appearing for the applicant, at the outset submitted that before preferring earlier Bail Application No.777 of 2015 in this Court, the applicant did not prefer an application before the Trial Court for bail. He further submitted that Order dated 11.2.2016 passed by this Court is also silent on the aspect that if the trial pertaining to C.R. No.371 does not commence within a period of one year from the date of said Order, whether the applicant is entitle to prefer fresh bail application before the Trial Court or before this Court. He therefore submitted that the applicant may be granted liberty to prefer application for bail before the Trial Court, as on the earlier occasion certain vital aspects on merits, giving rise to filing of Bail Application No.777 of 2015 were not brought to the notice of this Court. He therefore seeks liberty to prefer bail application before the Trial Court.

3] It is true that propriety demands the applicant at the first instance should approach the Trial Court and if the Trial Court does not entertain his request of bail, then he is having remedy to prefer further application for bail before the High Court. By preferring bail application directly before this Court, the applicant has skipped one forum for agitating

his grievance and/or for placing facts before the Trial Court, which in fact, is a fact finding Court and this Court gets benefit of the findings recorded by the Trial Court. As the applicant on the earlier occasion did not approach the Trial Court so also if the this Court has already granted liberty to the applicant to file a fresh application for bail, in view thereof, the applicant is granted liberty to file fresh application before the Trial Court.

4] If applicant prefers regular Bail Application before the Trial Court, the Trial Court to decide the same on its own merit without being influence by the fact that earlier application preferred by the applicant was dismissed by this Court by an Order dated 11.2.2016.

5] The present Bail Application is disposed off in the aforesaid terms.

(A.S. GADKARI,J.)