nsc.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1696 OF 2017

Sakib Faizanullah Khan and Ors. ...Applicants
Versus
The State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO.747 OF 2017
IN
CRIMINAL BAIL APPLICATION NO.1696 OF 2017

Maksood Ali Rehmani ...Intervener (Complainant)

IN THE MATTER BETWEEN

Sakib Faizanullah Khan and Ors. ...Applicants
Versus
The State of Maharashtra ...Respondent

Mr.A.H.Ponda i/b Mr.A.R.Raghuvanshi, for the Applicants.

Mr.V.V.Gangurde, AP.P for the Respondent-State

Mr.Ayaz Khan i/b Mr.Zehra Charania, for the Original Complainant/Intervener.

CORAM : REVATI MOHITE DERE, J.

DATE : 9th AUGUST, 2017

P.C. :

1. Heard learned counsel for the parties.

2. At the outset, learned counsel for the applicant states that the applicant's application for bail, being Bail Application No.350 of 2017, filed after filing of the charge-sheet, was not considered on merits by the learned Additional Sessions Judge. He relied on para 7 of the said order dated 18th April, 2017 passed by the learned Additional Sessions Judge, Greater Mumbai, in Bail Application No.350 of 2017. He prays that the said order be quashed and the matter be remitted back to the trial Court for re-considering the applicant's bail application, being Bail Application No.350 of 2017, afresh, on its own merits, after hearing the parties.

3. Learned APP and learned counsel for the original complainant have no objection for the same.

4. Perused the papers. Admittedly, the order dated 18th April, 2017 was passed by the learned Additional Sessions Judge in Bail Application No.350 of 2017, which was filed, after filing of the charge-

sheet. The learned Additional Sessions Judge has observed that as the earlier Anticipatory Bail Application of the applicant and the Bail Application (prior to the charge-sheet) was rejected by him, there was no change of circumstance brought on record, to consider the second bail application.

5. Needless to state, that filing of the charge-sheet is a change of circumstance and therefore it was incumbent on the learned Additional Sessions Judge, to consider the bail application afresh, on its own merits on the basis of the material in the charge-sheet and after hearing the parties.

6. Considering the aforesaid, the order 18th April, 2017 passed by the learned Additional Sessions Judge in Bail Application No.350 of 2017, is quashed and set aside. Bail Application No.350 of 2017, is restored back to its original file. The learned Additional Sessions Judge shall pass appropriate orders, after hearing the parties.

7. The Application is accordingly disposed of.

8. In view of the aforesaid, the Intervention Application being Criminal Application No.747 of 2017 does not survive and the same is also disposed of.

9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)