

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2008 OF 2016

Amit Ramkumar Soni	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Ms. Mansha Khemka i/b. Khemka and Associates, Advocate for the applicant.

Mrs.P.P.Shinde,APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 20th February, 2017.

P.C.

After arguing at length, the learned counsel for the applicant seeks liberty to withdraw the application. Liberty as prayed for is granted in the interest of justice.

2. This Court has been informed that one of the co-accused has filed an application before the Hon'ble Apex Court seeking transfer of Sessions Case No.717 of 2011 to any other Court. The learned Counsel for the applicant, upon instructions, submits that the ground for seeking transfer is that the co-accused apprehends that it has been a biased investigation as all the deceased are from the State of Maharashtra, whereas the accused persons are non-Maharashtrian. The learned counsel for the applicant submits that the applicant has been arrested on 8.6.2011. The charge-sheet

is filed. In the present case, charge is framed on 18.11.2016 and in the past 2-1/2 months no witness has been examined. It has been brought to the notice of the Sessions Court that an application seeking transfer is filed and pending before the Hon'ble Apex Court. The learned counsel for the applicant submits that any delay in proceeding with the trial would be fatal to the prosecution as the accused would be undergoing punitive detention. It is also submitted that on account of delay in trial, the applicant deserves to be enlarged on bail.

3. In the facts of the case, it is clear that four persons have been brutally mutilated. That the decomposed bodies were found. The applicant herein is pleading alibi at the time of incident. It would be necessary to consider that the liberty of an individual shall not outweigh justice to the deceased. The accused would be at liberty to adduce cogent material for pleading alibi at the time of trial.

4. The learned Sessions Judge shall not be swayed by the submission that an application seeking transfer is pending before the Hon'ble Court as the trial has not been stayed by any Court of law and therefore the learned Sessions Judge should have proceeded with the trial. The merits of the prosecution case can be decided only at the time of trial in the course of recording substantive evidence.

5. As far as the applicant is concerned, it appears from the records that there is a confessional statement of the co-accused which may be considered under Section 30 of the Indian Evidence Act. Be that as it may, since the co-accused are in custody from 8.6.2011, the learned Sessions Judge shall proceed with the trial i.e. recording of evidence forthwith. The learned Sessions Judge shall not grant any adjournment either to the prosecution or to the defence and shall also ensure that the accused are produced before the Court on each and every date. Upon failure, the learned Sessions Judge shall take appropriate action. The learned Sessions Judge shall expedite the trial, and conclude the recording of evidence as far as possible, within 10 months from the date of receipt of this order. Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)