

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4531 OF 2017**

Kamal Sunderdas Bathija
Versus
The State of Maharashtra

..Petitioner
..Respondent

Mr. Subhash Jha along with Mr. Sanjana Pardeshi i/b. Law Global,
advocates for the petitioner.
Mrs. Aruna S. Pai, APP for the State.

**CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-
JOSHI, J J.
DATE : 9th NOVEMBER, 2017.**

P. C. :

Heard Mr. Jha, learned counsel for the petitioner and
Mrs.Pai, learned APP for the State.

2. The petition is filed seeking direction to the State to examine the 9 prosecution witnesses who have not been examined and whose names have been mentioned in para 6 of the present petition as prosecution witnesses in Sessions Case No.219 of 1999 pending before the Additional Sessions Judge at Kalyan.

3. The learned APP pointed out that the petitioner as well as prosecution filed application before the Additional Sessions Judge at Kalyan for permission to examine the said 9 witnesses on 31st October, 2017. This position is not disputed by Mr. Jha, learned counsel for the

petitioner. Mr. Jha submitted that the petitioner's application was not even accepted by the learned Sessions Judge at Kalyan. The facts remain that the prosecution's application for the said purpose was accepted in the said sessions case and it is a part of record, however, it is not yet decided.

4. A statement is made across the Bar by learned counsel and learned APP for the respective parties that the session's case is posted for judgment on 18th November, 2017. In our opinion, unless the said application is decided, the judgment should not be pronounced in the subject sessions case. We, accordingly, dispose of this petition by passing the following order :

(a) The Additional Sessions Judge at Kalyan is directed to decide the prosecution application dated 31st October, 2017 to permit them to examine 9 more witnesses, a copy of which is annexed at Exhibit E, page 132 of this petition as expeditiously as possible and, in any case, before 14th November, 2017.

b) Needless to mention that the learned Additional Sessions Judge at Kalyan shall decide the said application independently on its own merits and in accordance with law.

The petition is , accordingly, disposed off.

2. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

3. The petitioner is at liberty to produce the authenticated copy of this order before the learned Sessions Judge at Kalyan as expeditiously as possible.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]