

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 128 OF 2018
IN
CRIMINAL MISC. APPLICATION NO. 97 OF 2018

IMRAN KHAN., ... Applicant

Versus

STATE OF GOA, THR. THE PUBLIC
PROSECUTOR AND ANR., ... Respondents

Shri Nitin Sardessai, Senior Advocate with Shri Kaif Noorani,
Advocate for the Applicant.

Shri S.R. Rivankar, Public Prosecutor for the Respondents.

Coram:- C. V. BHADANG, J.

Date:- 20th April 2018

ORAL ORDER:

Criminal Miscellaneous Application No. 97/2018 is filed by the applicant, seeking review/modification of the order dated 27.02.2018, passed by this Court in Criminal Writ Petition No. 25/2018. By the said order, this Court had confirmed the rejection of the application, filed by the applicant under Section 457 of Cr.P.C. The applicant had sought release of the Bank Accounts, which have been freezed by the Investigating Agency under Section 102 of Cr.P.C.

2. During the course of the hearing of the review application, the applicant filed the present criminal miscellaneous

application, for modification of the order, in view of the fact that the chargesheet is not yet filed. The applicant is not pressing the application for review.

3. Shri Sardessai, the learned Senior Counsel for the applicant pointed out that there was a statement made on behalf of the respondent-State on 14.02.2018 that the chargesheet will be filed within three weeks. It is submitted that till date, the chargesheet is not filed.

4. Shri Rivankar, the learned Public Prosecutor submits that the investigation is almost complete and the matter has been sent to the Directorate of Mines and Geology, to ascertain the exact amount of the ore, which is involved in the matter. In other words, it is not disputed that the material part of the investigation is almost complete and the chargesheet shall be filed on receipt of the report from the Directorate of Mines and Geology.

5. In the present application, the applicant has sought for release/defreezing of the amount of Rs.25 crores, out of the total amount of Rs.69 crores. The applicant has also shown willingness to furnish an indemnity bond/undertaking to bring back the amount, if so ordered by the Court.

6. The respondent has filed a say and in para 11, the

Investigating Agency has given no objection for releasing certain amounts as set out in paras 11, 12 and 13 of the reply.

7. I have heard Shri Sardesai, the learned Senior Counsel for the applicant and Shri Rivankar, the learned Public Prosecutor for the respondents. It is submitted by the learned Public Prosecutor that the Investigating Agency, would be able to file the chargesheet, within a period of three months, i.e. on receipt of the report from the Directorate of Mines and Geology.

8. Even while deciding Criminal Writ Petition No. 25/2018, this Court had granted liberty to the applicant to move the learned Sessions Judge under Section 451 of Cr.P.C. after filing of the chargesheet. However, as noticed earlier, the learned Public Prosecutor submits that the chargesheet would be filed within three months from today.

9. Considering the overall circumstances and by consent of parties, the following order is passed:

O R D E R

(a) An amount of Rs.3.50 crores is defreezed from the Current Account No. 100620110000583 with Bank of India, Margao Branch, which shall be subject to the applicant furnishing an undertaking to bring back the amount, if so ordered by the learned Sessions Judge.

(b) The undertaking shall be furnished before the learned Sessions Judge.

(c) The applicant shall be at liberty to file an application under Section 451/457 of Cr.P.C., before the learned Sessions Judge, after filing of the chargesheet or after three months from today, whichever is earlier.

(d) If such an application is filed, the learned Sessions Judge shall decide the same without being influenced by the observations made in the judgment and order dated 27.02.2017, passed in Criminal Writ Petition No. 25/2018, including the observations and findings in paras 19 and 23 of the judgment.

(e) The Criminal Application is disposed of in the aforesaid terms.

(f) All concerned to act on the basis of an authenticated copy of the order.

C. V. BHADANG, J.

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