

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.372 OF 2018

Jeevan Devram Shirsat

Applicant

versus

The State of Maharashtra

Respondent

Mr.Kabul Singh Labana for applicant.

Mr.A.R.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 3<sup>rd</sup> May 2018

PC :

1. By order dated 13<sup>th</sup> April 2018 the Trial Court was directed to submit a report to this Court with reference to the status of the trial. This is a second bail application preferred by the applicant before this Court. The earlier application was rejected vide order dated 18<sup>th</sup> July 2017. The present application was filed on the ground that the applicant is ailing. In view of that, directions were issued for medical examination of the applicant in J.J.Hospital. The report was received wherein it was indicated that the applicant had mild hydrocoele which does not require urgent surgical intervention. Patient was given oral antibiotics and advised routine test and microscopy and to follow up in routine out patient department under urology and general surgery.

2. It is submitted by the learned counsel for applicant that in spite of directions issued by this Court expediting trial, there is no progress in the trial and the same is being prolonged at the instance of complainant. It is also submitted that the applicant is in custody since 8<sup>th</sup> June 2015.

3. Considering the medical report, it would not be possible to grant bail to the applicant on medical ground. The report of the Trial Court states that the order passed by this Court was received by the Trial Court on 23<sup>rd</sup> August 2017. The said fact is also fortified by roznama. Vide order dated 18<sup>th</sup> July 2017, the trial was expedited and the Trial Court was directed to conclude the trial within nine months from the date of receipt of copy of the order. The report from the Trial Court also indicate that the accused was not produced from jail on some occasions and therefore the charge could not be framed, at the earliest. However, on 14<sup>th</sup> November 2017, the charge was framed against all the accused as on that day the applicant-accused was produced before the Court. However, the witness summons was issued on 20<sup>th</sup> December 2017. The roznama of the proceedings indicate that thereafter on 10<sup>th</sup> January 2018 and 18<sup>th</sup> January 2018 the proceedings were adjourned at the request of learned prosecutor apparently since summons could not be executed upon the witnesses. The report further indicate that the witnesses secured their presence on 25<sup>th</sup> February 2018. However, on that day, the complainant filed an application for adjournment vide Exhibit-51. The case was then adjourned to 13<sup>th</sup> March 2018. On that day the case was adjourned at the instance of defence advocate to 6<sup>th</sup> April 2018. The roznama of 6<sup>th</sup> April 2018 shows that the accused was not produced from jail. Other accused were, however, present. The roznama also states that witness summons was issued and the witness executed bond for assuring his presence on the next date.

4. Nine months period as stipulated in the order dated 18<sup>th</sup> July 2017 would come to an end on 23<sup>rd</sup> May 2018. However, it is apparent from the report of the Trial Court as well as roznama that

there is no progress in the trial. It is also apparent that the accused was not produced from jail on two occasions. Considering the fact that the applicant is in custody for about three years, it is expected that the Trial Court would expeditiously conclude the trial. The trial cannot be adjourned at the convenience of complainant. Although the complainant/witness was present on the last date of hearing, his evidence was not recorded. Considering the fact that the applicant is in custody for a long period of time and that he is ailing, the Trial Court is directed to complete the trial expeditiously. It is noted that copy of the order was received by the Trial Court belatedly on 23<sup>rd</sup> August 2017. It is expected that jail authorities would produce the applicant on every date of hearing without fail. The Trial Court would give priority to this case in the light of the observations made hereinabove.

5. Hence, I pass following order :

#### **ORDER**

- (i) Criminal Bail Application No.372 of 2018 is rejected;
- (ii) The Trial Court is directed to complete the trial on or before 31<sup>st</sup> July 2018;
- (iii) The jail authorities are directed to produce the accused on every date of hearing/trial;
- (iv) In case of any serious health condition, the applicant will be at liberty to prefer fresh application for bail before the Trial Court.

(PRAKASH D. NAIK, J.)