

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION No. 1152 OF 2018

Gullu Vali Mohd. Sajida ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. P.G. Pandey, Advocate for the applicant.
Ms. Pallavi Dabholkar, APP for the respondent/State.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 4th May, 2018.

P.C.:

Upon mentioning, taken on production board.

2. This second Bail Application is moved on the ground that the trial has not commenced yet and the applicant/accused is in prison since approximately last three years without trial.

3. The learned counsel for the applicant/accused submitted that the prosecution is not bringing the witnesses and the learned Sessions Court has imposed fine on the prosecution. He further submitted that the accused is suffering from kidney stone which is approximately 11 cms in size since January, 2018, however, he is not given proper and effective treatment.

4. Learned APP is present and seeks time to obtain instructions from the Investigating officer and learned Sessions Court.

5. Heard the submissions. Perused the medical papers placed along with the Application. The learned counsel submitted that the applicant/accused is suffering from kidney stone problem, however, after going through the papers and giving enough opportunity to the counsel for the applicant to point out the finding of the doctor in respect of kidney stone, which he is unable to point out. Now he is seeking permission to produce medical papers in respect of kidney stone. After going through the papers of the J.J. Hospital dated 1st January, 2018, it appears that the applicant/accused has Hydronephrosis, which means swelling of a kidney due to a build-up of urine and it happens when urine cannot drain out from the kidney to the bladder from a blockage or obstruction. It appears that it is the day-to-day problem of the applicant/accused. The applicant being an under-trial prisoner, the learned Sessions Judge is hereby directed to take a note and pass orders from time to time in respect of treatment of the applicant/accused.

6. The Superintendent of Police of Thane Central Prison is hereby

directed to send the applicant/accused to J.J. Hospital and he is to be produced before the concerned doctor on 8th or 9th May, 2018. The Superintendent of Police is directed to provide necessary escort for the production of the accused.

7. The Investigating officer of the case to attend all the dates before the Sessions Court. The learned Sessions Judge to take note that this Court has passed strictures against the Investigating officer on the point of recording of statement under section 161 in this case. The trial Court to proceed with the matter day-to-day following procedure under section 309 of Code of Criminal Procedure. The prosecution and defence to cooperate the learned Sessions Judge.

8. Bail Application is dismissed.

(MRIDULA BHATKAR, J.)