

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.2562 OF 2015

Shri Parasnath Baburam Yadav
Vs
The State of Maharashtra & Anr.

... Petitioner

... Respondents

Ms. Mrunmaiee Kulkarni i/b. Madhusudan D. Pareek for the Petitioner.
Mr. Yogesh Y. Dabke, APP, for the State.

**CORAM : REVATI MOHITE DERE, J.
DATE : 06.02.2018**

P.C. :

1. At the outset, the learned APP submits that the application on which the impugned order was passed, was prior to the filing of the charge-sheet. He submits that now as charge-sheet is filed, the petition does not survive.

2. It is not in dispute, that the Petitioner had filed an application seeking interim custody of cash of Rs. 18 lakhs, which was seized by the Powai Police Station, in connection with N.C. No. 3422/2014, under Section 171 (h) of the IPC. The said Application was rejected by the learned Metropolitan Magistrate, 66 Court, Andheri, Mumbai vide order dated 05.02.2015. It is not in dispute, that during the pendency of the

aforesaid writ petition, charge sheet was filed in the said case.

3. Learned counsel for the Petitioner submits that certain documents were not available with the Petitioner, when the application seeking interim custody for cash, was filed. She submits that the Petitioner has subsequent to the impugned order, obtained certain documents, on which the Petitioner proposes to rely on, for seeking custody of cash of Rs.18 lakhs. Admittedly, the application for interim custody was rejected before the charge-sheet was filed.

4. In view of the change of circumstance, learned counsel for the Petitioner seeks leave to withdraw this petition with liberty to file a fresh application i.e. after filing of charge sheet.

5. Accordingly, the petition is disposed as withdrawn with liberty as prayed.

6. If an application is filed by the Petitioner, seeking custody of the cash amount of Rs.18 lakhs, the learned judge shall consider the said application, on its own merits, uninfluenced by the earlier order dated 05.02.2016. The learned Judge shall also consider the documents relied upon by the Petitioner alongwith the application, if so filed, on its own merits, in accordance with law. If an application is filed, the learned Judge shall decide the same, as expeditiously as possible, and in any event

within eight weeks from the date of filing of the Application.

7. Petition is disposed of in the aforesaid terms.

8. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)